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Solidariteit Arbeidsforum: Bemagtiging deur kennis

Hierdie is die eerste uitgawe van die Solidariteit Arbeidsforum. Die doel van Arbeidsforum is om raadslede, personeel en ander kernrolspelers in Solidariteit te bemagtig deur maandeliks inligting oor arbeidsverhoudinge te publiseer.

Arbeidsforum word deur ons navorsingsafdeling uitgegee na aanleiding van baie versoeke om meer inligting oor brandpunte in die arbeidswêreld. Verskeie mense se menings is voor die publisering van Arbeidsforum ingewin, maar ons sal na die eerste verskyning 'n deeglike peiling doen.

Hierdie is ons proefuitgawe. Ons kan net daarop verbeter as ons lesers laat weet wat hulle nuttig vind en voorstelle doen oor hoe ons die Arbeidsforum kan verbeter. Laat weet asseblief vir Francois Calldo (francois@solidariteit.co.za) as julle spesifieke versoeke het.

Ons onderhandelaars en senior unieverteenwoordigers moet elke dag hulle man (of vrou!) staan en oor elke denkbare saak onderhandel. Daarvoor het hulle inligting nodig. 'Arbeidsforum' se doel is om die nodige "skietgoed" aan hulle te verskaf. Daarom word Arbeidsforum saamgestel uit belangrike artikels wat oor arbeidsake verskyn.

Die doel is om maandeliks artikels te publiseer wat oor vakbondsake, arbeidsreg, beroepsgesondheid, arbeidsekonomie, regstellende aksie, mediese en pensioenfondse, opleiding, en ander brandpunte in die wêreld van werk handel. Lesers wat artikels oor soortgelyke onderwerpe raakloop, is welkom om dit vir publisering in Arbeidsforum aan te stuur.

In hierdie eerste uitgawe verskyn 'n verkorte weergawe van professor Wessel Visser van Stellenbosch se boek oor die vakbond se geskiedenis. Dit gee, ten spyte van 'n paar feitefoutjies, 'n baie goeie oorsig van die oorgangsproses van die MWU na Solidariteit.

Ons hoop dat 'Arbeidsforum' ons lesers sal help om hulle werk beter te doen. Help ons asseblief om julle te help deur julle behoeftes aan ons deur te stuur. Net deur almal se samewerking kan ons Arbeidsforum uitbou tot 'n top inligtingsdiens aan Solidariteit.

Flip Buys
UITVOERENDE HOOF

0 6 01

From MWU to solidarity – a trade union reinventing itself

by Wessel Visser*

Abstract

As South Africa's most prominent white trade union of the 20th century, the Mine Workers' Union became renowned for defending white job reservation in the mining industry. After 1948 it enjoyed the NP government's support in this regard. Skilled labour shortages and changing labour conditions in the 1970s forced the government to introduce labour reform. Job reservation was scrapped and black unions were officially recognised, in accordance with the recommendations of the Wiehahn Commission. These initiatives put the MWU on a confrontational path with the government and the union aligned itself with right-wing political resistance and protest. However, the altered political and economic South African realities after 1994 forced the MWU to rethink its vision, strategies and structures. By 2002 it had reinvented and transformed itself into Solidarity, adequately equipped and geared to address the labour challenges and demands of a post-apartheid South Africa.

1 Introduction and theoretical framework

This article is an abridged version of a comprehensive research project into the history of the South African Mine Workers' Union covering one hundred years of the union's history. The project, entitled *Van MWU tot solidariteit: 'n geskiedenis van die Mynwerkersunie, 1902-2000*, is due to be published in Afrikaans and English in the course of 2007. Up to now, no complete study of the history, role and influence of the Mine Workers' Union in South African society has been published and the project, an initiative by the author, is an effort to fill this lacuna in South African historiography. After reading in a press release in 2001 that the union would change its name to MWU-Solidarity, the author approached the union's general secretary, Flip Buys, with the intention of writing its history. It was agreed with the union's executive that the author would have free access to any MWU archival records but would maintain complete editorial independence throughout the writing and publishing process.

The Mine Workers' Union can, in all probability, be regarded as the leading white labour union in South Africa during the apartheid era. Its history and actions were influenced in an important way by the course of South African politics and economics during the twentieth century. Against this background this article examines the rocky road of labour relations between the MWU and mining capital and the state. These relations oscillated between militant industrial clashes involving labour, state and capital, intimate involvement with the Afrikaner labour movement and politics, and an embittered alienation from the NP government which would eventually drive the MWU into the fold of right-wing politics. For most of its history, and especially during the more

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turbulent times, its members could rely on bold leadership to steer the union successfully through periods of crisis. The MWU's ability to adapt to changing labour conditions has been a key feature of its survival for more than one hundred years. The article analyses the circumstances which led to a crisis in the union's existence towards the end of the 1990s and which forced a complete restructuring and reinvention of its strategies in order to survive in post-apartheid South Africa. In addition, the successes of the restructuring initiatives that were introduced by the union's executive are examined.

2 Militant beginnings

Originally founded on 22 June 1902 in Johannesburg as the Transvaal Miners' Association, or TMA (Ticktin 1973:113-114), this union became prominent for its militant stance in the great industrial strikes, during the first two decades of the existence of the Union of South Africa. After the 1913 strike, the TMA was renamed the (South African) Mine Workers' Union (MWU) (Gitsham & Trembath 1926:28,66; Cope 1943:89,110-111; Walker & Weinbren 1961:22,42; Katz 1976:152,226,252). The year 1922 saw the biggest and bloodiest industrial upheaval in South African labour history – a three-month strike which was eventually suppressed by government forces. The MWU played a pivotal role in the so-called Rand Revolt, in defence of white job reservation and the colour bar in the goldmines of the Witwatersrand (Oberholster 1982:56-191; Urquhart 1922:33,74-96).

A political consequence of the miners' defeat during the 1922 strike was the fall of the Smuts government in the 1924 general election, the Smuts government being held responsible for the violent suppression of the strike. In its place a coalition government, consisting of the National Party (NP) and the South African Labour Party (SALP), came into power and introduced a programme of protective pro-white, or "civilized", labour legislation. The introduction of the Mines and Works Amendment Act (the so-called "Colour Bar" Act) in 1926 was of particular benefit to members of the MWU in that it entrenched white job reservation on the mines. The law protected skilled and semi-skilled white workers by simply reserving the granting of certificates of competency in skilled trades to whites and Coloureds and excluding blacks and Asians (Brits 1993:154-155,173-175,180-182; Johnstone 1976:150,156,166-167). Therefore the post-1922 period saw the incorporation, institutionalisation and bureaucratisation of white trade unions within the state structures, thus disarming them as a potential militant, political threat. Within the union structures power passed into the hands of a bureaucracy of permanent and salaried trade union officials (Davies 1979:179-181,195-198,231).

According to Yudelman (1983:9,114-115,186,208-211,221-233), the state embarked upon a programme to subjugate and pacify organised white labour by formally coopting it into the structures of the state. Thus organised white labour lost its power to use strikes as an effective political and economic weapon, having been depoliticised by means of incorporation into the political and administrative structures of the state. This was indeed a trade off – white labour accepted collective bargaining and the civilized labour policy in exchange for compliance with state-controlled labour structures. The increased role of the state brought a virtual end to militant white worker resistance and for the next five decades or so the MWU was become a docile, pro-government union.

3 The MWU between 1924 and 1979

The 1930s and 1940s are regarded by many historians as the years when Afrikaner nationalism peaked. In this period the MWU became embroiled in the intense and sometimes fierce struggle for political hegemony between DF Malan's NP and Smuts's newly founded United Party (UP). For the Afrikaner political and cultural leaders within the NP, as well as the UP with its SALP ally, the densely populated mining constituencies of the Witwatersrand became crucial battlegrounds in general elections. By 1936, for instance, Afrikaners constituted 90% of the MWU's 12 000 members, but they had virtually no representation on the union's executive and therefore no say in running its affairs. Concomitantly, therefore, with the battle for political power in the public domain, a bitter and protracted struggle was waged for twelve years between Afrikaner nationalists in the NP and their foes in the UP-SALP alliance for political control of the MWU.

In their efforts to gain trade union control over the white miners, Afrikaner cultural leaders such as Dr Albert Hertzog initially tried to establish the Afrikaner Bond van Mynwerkers (ABM) to counter the UP-SALP controlled MWU and to coax its members away. However, these efforts were thwarted by the Chamber of Mines' refusal to recognise the ABM, after which Afrikaner nationalists focused on a strategy to take over and Afrikanerise the MWU executive. Allegations of fraud, corruption and mismanagement of the union's assets by its pro-UP-SALP executive, resulting in commissions of inquiry into the MWU's affairs, two strikes and various court cases, also contributed towards convincing its members that a change of management had become necessary. In the 1948 general election six mining constituencies played a decisive role in bringing the NP to power. And in November 1948, six months after the NP came to power, a new NP-oriented MWU executive was also elected (see Naudé 1969 and De Kock 1983).

From 1948 to the late 1970s the pro-NP executive of the MWU maintained a symbiotic and fairly harmonious relationship with the NP government. As one of its most important constituencies, the NP government had the interests of the unskilled and semi-skilled white working class at heart. As in 1924, the MWU's interests were promoted and entrenched by protectionist legislation. In addition, Daan Ellis, the newly elected general secretary of the MWU, was a self-proclaimed NP supporter and a member of the party's executive in the Transvaal. He had instant and unrivalled access to ministerial - and even the Prime Minister's - offices and maintained a benevolent and friendly relationship with the then Minister of Mines, Dr AJR van Rhyn. A parliamentary mine study group was also formed by MPs from NP-controlled mining constituencies on the Witwatersrand, which served as a lobby for white miners' interests regarding legislation. The close relationship between the MWU and the party probably culminated in the NP caucus's nomination of Faas de Wet as Senator in 1955. De Wet was the MWU's welfare officer and also a member of the NP's Transvaal executive (Giliomee & Adam 1981:123,143; Lang 1986:317,378).

The close relationship that existed between the MWU and the NP after Ellis's appointment as the union's general secretary was to last until the late 1970s. Between 1948 and 1978 it was not necessary for white unions such as the MWU to exercise political pressure in order to promote their interests. Their aims could be achieved through party political channels. The NP's party system provided sufficient conduits through which representations by trade union leaders could be made to the government. As was mentioned previously, the executive of the Transvaal NP, in

particular, reserved positions for MWU representatives such as Faas de Wet. Between 1956 and 1979 labour policy matters were cleared in all cases with the MWU before implementation. In terms of labour policy, therefore, the MWU not only enjoyed protection from the state, but also wielded a great deal of influence (Giliomee & Adam 1981:202; Barnard 1991:30).

The NP government eventually began to shift its stance on economic policy, however, adopting policies that would in future differ considerably from those of previous decades. From the 1960s to the mid-1970s the government, in its implementation of the policy of apartheid, attempted to restrict the economic mobility of blacks in white South Africa by forcing them to fulfil their aspirations in Bantustans. Simultaneously, the government was forced to take cognizance of changing economic conditions. As the gold price and gold production were on the rise, government revenue from gold and the mining industry remained a crucial source of income in foreign exchange. Therefore, in the face of threatening economic isolation and sanctions by the international community in response to South Africa's apartheid policy, the importance of mining and business interests, as important sources of state revenue, increased accordingly. From the early 1970s onwards the NP government began to take cognizance of the interests of the private sector and its need for a stable labour force. Initially the attitude of BJ Vorster's cabinet was that black workers could only be promoted in the labour hierarchy with the consent of white unions. In the light of the changing economic priorities, however, the state gradually began to remove the restrictions on black labour. Blacks were also provided with better training facilities, as the shortage of skilled labour made the provision of black job opportunities a priority. The necessary consequence was that white job protection would be curtailed. This in turn generated greater tensions within the ranks of white trade unions, especially the MWU (Giliomee & Adam 1981:135-136,143,151,202; Houghton 1978:102,108-113,228-230).

4 The recommendations of the Wiehahn Commission and the consequences for white labour

What can be regarded as a watershed event in the history of the black labour movement, an event which also heralded the renaissance of black trade union organisation in South Africa, was the mass Durban strikes of 1973. These widespread strikes over low wages, mounting unemployment and poverty involved an estimated 60 000 to 100 000 black employees. Industry was disrupted. The institutionalised racial separatism entrenched in labour structures and the waves of strike action in 1973 prepared the ground for the unprecedented growth of a new brand of trade unionism in the history of the South African labour movement. The work stoppages sowed the seeds from which sprang a profound consciousness of power among the black working masses (Van Niekerk 1988:154; MacShane 1984:16-17,20-23; Finnemore 1998:29; Bendix 1989:300; Ncube 1985:114,143; Luckhardt & Wall 1980:447-453).

By 1976 it had become obvious that the government had not solved the problem of black worker militancy. Pressured by the political consequences of the 1976 Soweto student uprisings, combined with the threat of sanctions and disinvestment, the government in 1977 appointed a commission of inquiry into labour legislation, commonly known as the Wiehahn Commission. The most outstanding recommendations which the government accepted and implemented included the registration of black trade unions and the abolition of statutory job reservation (Wiehahn 1983:186-189; MacShane et al 1984: 55-56; Bendix 1989:302-307).

Having enjoyed state protection for such a long time, members of the MWU were totally unprepared for socio-economic reforms and black advancement, which they regarded as a direct threat to their position. White workers resented the desegregation of public amenities on the mines as well as the possibility of working under black supervision. There were also fears of being replaced by black miners or fears that their wage levels could be undercut by cheaper black labour. At the same time the number of white workers dwindled in relation to the South African labour force as a whole and therefore their scarcity value as skilled labour decreased as well. Their industrial and political power to influence labour legislation and policy diminished accordingly (Van Rooyen 1994:31). According to Barnard (1991:35), the appointment of the Wiehahn Commission, and the government's subsequent acceptance of its recommendations were the most important factors in the eventual rupture of the ties between the MWU and the NP. Whereas the previous militant clashes between the state and the union ended in bloody violence and loss of life, the MWU of the late 1970s resorted to confrontational political resistance and protest in its disputes with the NP government.

Personality clashes played an important role in the breakdown of the relationship between white mining labour and the government. During Fanie Botha's term of office as Minister of Labour (a post that was later renamed Minister of Manpower) the previously cordial relations between the Department of Labour and the MWU degenerated to a level of mutual distrust. Between Botha and Arrie Paulus, Gründling's successor as MWU general secretary, there was a feeling of mutual aversion (Barnard 1991:32,34,114). As far as Paulus was concerned, the status quo of the Mines and Works Act with regard to job reservation should remain unaltered, as it was perceived to be the only protection for the white labour minority against "black oppression". As "foreigners" in white South Africa, they could not claim trade union recognition, but should exercise their labour and political rights in the Bantustans. Paulus predicted that if blacks were appointed over MWU members in the mining industry South Africa "would know no industrial peace" and that such advancement of black labourers would lead to "friction and labour unrest" (Jacobsz 1980:10,12-13,20; Barnard 1991:47,79).

The MWU threw down the gauntlet on the eve of the release of Part 1 of the Wiehahn report when a strike by union members broke out on an obscure copper mine in O'Okiep, Namaqualand. The strike, which began on 5 March 1979, was organised to oppose the appointment of three Coloured artisans in jobs reserved for whites under the mining regulations of the Mines and Works Act. It soon escalated into a nationwide strike involving 9 000 white miners on 70 mines. The strike collapsed after a week, however, when the Chamber of Mines threatened that the temporarily suspension of the strikers would become permanent, with the loss of all benefits (Cooper 1979:4,6-18,21-23,25; Friedman 1987:164-165,177; Barnard 1991:79,83-84,114,117; Lang 1986:469). According to Cooper (1979:2,4,17-18,20-25), the 1979 strike served as a warning to the government not to tamper with mining regulations regarding job reservation in its zeal to introduce labour reform. The MWU also tried to demonstrate that the white miners were indispensable in the mining industry and that production would be seriously affected without them. The 1979 strike was the last desperate but futile attempt by white miners to thwart labour reform and to preserve a labour dispensation based on apartheid legislation.

Although the gist of the recommendations of Part 1 of the Wiehahn Commission was anticipated by the MWU, its endorsement by the government still came as a shock. Suddenly white workers would no longer be able to rely on state protection of their jobs (Giliomee & Adam 1981:203; Lipton 1989:322). Spokespersons of the MWU vilified and

lambasted the Wiehahn report. For Paulus it meant "suicide" for the white worker and he regarded the recommendations as "the greatest act of treason against the white workers of South Africa since 1922". Fanie Botha, the Minister of Labour, was accused of breaking his promises to consult with white workers before considering any changes to labour legislation (Paulus 1979:1-2). In his MWU presidential address of 1981 Cor de Jager reproached the NP for no longer being the same party which the miners had helped to bring to power in 1948. He also repeated the old MWU threat of another "1922 strike", should the government tamper with the Mines and Works Act to force job integration upon white miners and to grant blasting tickets to blacks (MWU General Council Minutes 1981:1-2,4,8-9).

Part 6 of the Wiehahn report was released in November 1980 and dealt specifically with legislation regarding labour relations in the mining industry. It confirmed the MWU's "worst fears", as De Jager put it. The term "scheduled person" in the wording of the 1965 Mines and Works Act was replaced with "competent person", thus implying that black miners would in future also be able to obtain blasting tickets (Wiehahn 1982:740-765; Lang 1986:471; Friedman 1987:173). However, compared with its reaction to the release of Part 1 of the Wiehahn recommendations, the MWU's response to Part 6 was surprisingly void of militant rhetoric. Paulus and De Jager repeated their old accusations that the NP was no friend of the white worker any longer and that it was willing to violate established labour policy to gain favour with "moneyed interests" and with blacks. This "sell-out" of white labour would "inevitably" lead to black demands for desegregated neighbourhoods, facilities and a one-man-one-vote franchise system (MWU General Council Minutes 1982:2-3; Paulus 1981:1; De Jager 1982:1,3; Barnard 1991:48-49). But despite the MWU's lament that the Wiehahn recommendations abolished job reservation, Lipton (1989:63,208), Lang (1986:471), Friedman (1987:167,173) and Hamilton (1977:28,79) concur that, because of its pervasive influence in the mining industry and the government's wariness of this situation, the union succeeded in keeping the colour bar intact on the mines until as late as 1987.

Seeing that the government could no longer be prevented from implementing the Wiehahn recommendations, the MWU changed tactics in its persistent opposition to the encroachment on job reservation. Firstly, it decided to consolidate the ranks of white labour in order to resist the abolition of job reservation and to bargain for white workers' rights more effectively. Therefore Paulus strove to create a "white force" or power base that could "fight" for the "survival" of the white worker. It would also serve as a strategy against the "threat" of "black advancement". Thus a politically conscious pressure group, or one advocating solidarity similar to the Polish example of 1980, was to be created and possibly later transformed into a (white) workers' party (MWU General Council Minutes 1979:10,21; Barnard 1991:45,49-50,52,58,66,115; Friedman 1987:176).

But in its endeavour to build a white trade union alliance against a non-racial labour dispensation, the MWU made many enemies. Using the MWU's official organ, Paulus drew a distinction between conservative unions, which openly advocated white workers' rights, and moderate unions. He severely criticised the moderate unions which signed the so-called SEIFSA agreement (Steel and Engineering Industries Federation of South Africa) as it was regarded as a method of circumventing the colour bar in the mining industry. Signatories to the SEIFSA agreement undertook to do away with discriminatory practices in favour of equal jobs and training for blacks. Paulus's uncompromising stance even created dissension in the ranks of the South African

Confederation of Labour Associations (SACLA), an all-white labour confederation of which the MWU was a member. Several SACLA member unions, such as the Metal Workers' Union, dissociated themselves from Paulus's views and supported the new labour legislation proposed by the Wiehahn commission. Paulus's dissenting tactics eventually caused SACLA's influence on the South African labour scene to wane almost to insignificance. Most moderate unions disaffiliated from SACLA in the early 1980s as a result of the dominant anti-black outlook that prevailed in the organisation (Barnard 1991:51-56,58-59, 63-64, 114-115; Lipton 1989:198-199,205; Friedman 1987:163,165-166,175).

In an effort to counter the influence of moderate white artisan unions in the mining industry and to lure their members away, the MWU began to expound the idea that, by opening their ranks to black workers, these unions had "betrayed" the white worker. Therefore the MWU was the only trade union that truly catered for the interests of the white worker. In the light of the Wiehahn recommendations that trade union registration should be liberalised, the MWU also attempted to extend its traditional scope beyond the mining industry. The union began to recruit steelworkers at Iscor plants and electricity workers at Eskom power stations and coal mines. In its recruitment propaganda the MWU was portrayed as "a sanctuary for the white workers". The scope of recruitment was eventually extended to include about 200 job categories in mining and other industries in the greater Gauteng region (MWU General Council Minutes 1979:4; 1981:12-13; 1983:20; 1984: 22; Barnard 1991:59-62, 64, 66; Friedman 1987:176).

A second tactic that the MWU implemented in its strategy to oppose the encroachment upon job reservation was to align itself more closely with right-wing political parties such as Albert Hertzog's Herstigte Nasionale Party (HNP) and, after 1982, with the Conservative Party (CP) under Dr Andries Treurnicht. According to Barnard (1991:35,66), the political price the NP had to pay for introducing labour reform was the loss of political support from the MWU and the white worker. The character of the NP in the era of the Wiehahn commission was quite different from that of the "people's party" in the 1940s, when party policy was defined by ordinary members at party congresses. In 1948 white working-class support was crucial in the NP's election victory. But by the 1970s the party was controlled by an Afrikaner elite consisting of a growing urban, professional middle class, who were more concerned about their own material needs and comforts than altruistic people's ideals and the necessity of sacrifice. As their identification with the Afrikaner people as an ethnic group began to weaken, their identification with a multiracial South African state began to grow. These factors contributed to the NP's increasing estrangement from, and neglect of, its Afrikaner working-class base (Giliomee 2003:544,598,607,609; O'Meara 1996:165; Van Rooyen 1994:30; Barnard 1991:118).

Thus, after the release of the Wiehahn recommendations, the estrangement between the MWU and the NP government became complete and irreversible. Despite the political neutrality explicitly stipulated by its constitution, in practice the MWU gave moral and electoral support to the HNP in the by-elections of 1979 and the general election of 1981. Although the NP retained the mining seat of Randfontein in the by-election of 1979, the election results indicated a marked swing to the right in what was regarded as a strong anti-government protest vote against the Wiehahn recommendations (Barnard 1991:65-66,78-80,92-94,114; Yudelman 1983:269). In the mining constituency of Rustenburg, the home of MWU president Cor de Jager, the electoral swing towards the right was even more phenomenal and the NP only won the

seat by a small majority of 846 votes over the HNP. And in the 1981 general election De Jager stood as HNP candidate in the mining constituency of Carletonville. The HNP vowed to protect the interests of the white worker but, surprisingly, lost to the NP again as a result of internal strife and an ineffective election campaign and strategy (Barnard 1991:98-100,104; Ries & Dommisse 1982:83,96; Yudelman 1983:264,269; O'Meara 1996:165).

The clearest indication of the MWU's anti-government political position was the moral support the union's leadership gave to the CP since its founding in 1982. The CP was founded in reaction to the NP's liberal reformist policies with regard to the racial issue in South Africa. Soon after its inception Paulus indicated that the MWU agreed with Treurnicht's criticism of the "Botha-Wiehahn labour policy" and that they supported the CP leader's point of view. On the other hand, the union's attitude towards the NP chilled even further and turned to hostility (Ries & Dommisse 1982:96,108-187; Barnard 1991:118-119; MWU Executive Council Minutes 24.1.1983:2). Therefore it came as no surprise when Paulus was approached to contest the Carletonville seat for the CP in the general election of 1987. Although he won by a narrow margin of only 98 votes, this constituted a huge swing towards the right in mining constituencies, as was the case in 1979 and 1981. Paulus succeeded in turning the NP's majority of 3 000 votes in the previous general election into a CP gain (MWU Executive Council Minutes 26.1.1987: 11; 26.6.1987:13).

Peet Ungerer, Paulus's successor as MWU general secretary, shared his vision of consolidating white union labour in order to protect white workers more effectively from black encroachment. Ungerer nevertheless did not believe that the union should be positioned too close to party politics. However, the MWU could not escape the South African political ferment in the late 1980s and early 1990s. Soon after Ungerer's appointment as general secretary in 1987, the Mines and Works Amendment Act (the actual implementation of Part 6 of the Wiehahn recommendations) was published in the *Government Gazette*. It signalled the final scrapping of job reservation in the mining industry and enabled black miners to enter job categories previously reserved for whites. In the light of its history of threats and militant rhetoric to the effect that any attempt to abolish job reservation would have dire consequences for the mining industry, there were expectations in certain quarters that the union would revert to the strike weapon as it did in 1979. But in Ungerer's judgment, given the failure of the 1979 strike, a repetition of such tactics would be fatal. Without traditional government support the MWU found itself in a vulnerable position and a strike could jeopardise its very existence. Strike action would also serve no purpose as the Amendment Act had already been promulgated by parliament. The end of job reservation was finally a *fait accompli* (Ungerer 2001).

A political solution such as the 1924 general election, when white workers contributed to the fall of the Smuts government in retaliation for its bloody suppression of the 1922 strike, was not possible after 1987 in the light of the altered labour situation and white political dissension. In addition, Ungerer correctly interpreted the political implications for white labour when President FW de Klerk announced in parliament in 1990 that all anti-apartheid political organisations and exiles were to be unbanned, and all political prisoners liberated. A whites-only general election, in which workers could express a protest vote against the labour reforms that ended white labour security, would never again take place in South Africa. Thus the MWU adapted its strategy again. Henceforth it would strive towards creating a "super white trade union", as it was called. It was argued that in the absence of effective white political power under black

majority rule after 1994 there should be at least one strong labour organisation to cater for the political, economic and cultural needs of the Afrikaner working class and to enhance their bargaining power (Ungerer 1990:1; Ungerer 2001).

In order to implement its adapted strategy, the MWU adopted a two-pronged approach. Firstly, the union initiated a vigorous recruitment drive to extend its scope to workers in the steel, chemical, distribution and other miscellaneous industries. On the one hand, the promotion of a super white union was met with great enthusiasm by white workers, especially workers whose own unions had become multi-racial. By 1992 the MWU's membership had increased to 44 000 to make it the largest white trade union in South Africa and by 1994 membership had risen even further to 52 000 (see MWU General Council Minutes 1991, 1992; Buys 1992:8; Buys 1994:2). On the other hand, the MWU's successful campaign to enlarge its membership caused friction and animosity with the Iron and Steel Union, which - as its biggest rival for new members - began to lose large numbers to the former (MWU Executive Council Minutes 27.11.1991:12; 18.12.1991:5).

The second leg of its new approach forced the MWU inevitably back into the fold of right-wing politics. In reaction to the defeat of the "no" vote campaign during the 1992 referendum, where the white electorate had to endorse or reject the NP's policy of negotiating a new political dispensation with black liberation movements, the MWU, in conjunction with other right-wing organisations, decided on an all-embracing strategy of resistance and obstruction to any reform initiatives by the government. This strategy entailed non-violent mass mobilisation, strikes and protests by white workers. Thus the focus shifted from efforts to halt reforms by bringing a right-wing government to power through electoral means, towards exercising pressure on the NP and the ANC to recognise Afrikaner claims to political self-determination and to pay attention to white worker grievances and interests. In 1993 the MWU was a founder member of the Afrikaner Volksfront (later renamed the Freedom Front). This organisation aimed to unite right-wing movements in an effective alliance to further the idea of an Afrikaner *volkstaat* (Van Rooyen 1994:71-72,91,112-114,154-155,171-173,187-188,192-193).

From a perusal of the contents of *MWU News*, the union's new official mouthpiece, it seems clear that in the realignment of its position towards right-wing protest movements, the MWU became more reactionary and adopted a laager mentality. It began to focus on right-wing Afrikaner causes such as Radio Pretoria, the protection of the Afrikaans language in the workplace and so-called *volkseie* (people's own) schools and sports. *MWU News* also carried advertisements for right-wing business ventures. The desegregation of neighbourhoods and public facilities, as well as the implementation of affirmative action in the workplace were severely criticised. It was the intention of the MWU executive to rekindle a "culture of protest" among its members, which was absent in white labour ranks in the post-apartheid political dispensation. MWU mass action, protest marches and strikes were launched against Telkom, Eskom, Iscor and the mining industry on issues such as the withdrawal of certain workers' benefits as a result of affirmative action, wage demands, discrimination and violence against white workers, black advancement and the promotion of equal opportunities in the workplace (see MWU Executive Council Minutes 18.12.1995:25; 26.6.1996:30).

By 1997 the MWU had an extremely negative and stereotyped image in progressive labour circles. It was the image of a backward, racist and brutal organisation that was nothing but an anachronism from the old South Africa. Thus Karl von Holdt (2003: 230-231), former editor of the *South African Labour Bulletin*, scornfully depicted the office interior of an MWU organiser in Witbank:

> *The office...was filled with icons of apartheid, and of a white man's biography in a white man's country: a photograph of the architect of apartheid, Hendrik Verwoerd, a large model of a boer ox-wagon on a table; on the wall several brass images of wild animals, and one of two hands meeting in prayer; on another table a small replica R1 military rifle with a plaque inscribed with the words "Border Duty"...And most explicit of all, a poster referring to an informal discourse usually omitted from the formal language of apartheid, but underpinning it: it depicted a row of figures starting with a baboon on all fours, then a stooped cave man, followed by a somewhat less stooped "kaffir", and finally an erect white man. This poster, in the office of a white man...[who] was now an official of MWU, indicates the kind of racism experienced in work relations between black and white.*

Even an Afrikaner establishment paper such as *Die Burger* jokingly referred to the MWU as a "bitter-mouthed" reactionary institution dominated by members of the CP, the HNP and the AWB (Afrikaner Weerstandsbeweging) ("Dawie" 2004:16). From 1994 to 1997 the MWU stagnated. Its right-wing image was politically incorrect and it was perceived to be only for blue-collar mineworkers. The public viewed the MWU negatively and the union moved from being a national role-player to being a marginalised shop-floor union. In addition, many of its members were retrenched or disaffected. It became clear that in the light of the radically altered political and economic realities of South Africa after 1994, the MWU had reached a crossroads. To avoid further stagnation and to remain a significant player in the shrinking labour market of the post-apartheid economy, the union had to choose between a complete rethinking of its vision, strategies and structures – reinventing itself, as it were – or drifting into a cul-de-sac (Backer 2001:68).

5 Transforming from MWU to Solidarity

In July 1997 Flip Buys succeeded Peet Ungerer – the first general secretary in the history of the MWU who was not himself a miner (Buys 2001). An academically trained intellectual, Buys was characteristic of a new generation of white-collar trade union officials who had to function in a totally changed labour milieu. The old practice, where blue-collar union leaders were forged by years of practical experience on the factory floor or in the mine stopes, was simply no longer adequate to meet the complexities and demands of modern trade union management. The radical changes which occurred in South African trade unionism towards the end of the 20th century demanded new skills in labour and strategic management.

Buys's background, training and experience made him eligible for the job of general secretary in more ways than one. Apart from obtaining a bachelor's degree in political science and communications at Potchefstroom University in 1988, he had a historical connection with the union in that his grandfather participated in the 1922 strike. As a student he was the chairperson of the local CP branch and also served on the student representative council. After completion of his studies, Buys was appointed labour relations officer at Eskom and in 1990 was promoted to a senior position in that capacity. In the same year he joined the MWU and was responsible for labour relations, marketing, training and communications. From 1995 to 1997 he left the MWU for the Freedom Front as organiser (Ungerer 1991:4; Durand 1997:1,3; Buys 2001).

Buys viewed his new position as a calling rather than a job and his appointment at the MWU imbued the organisation with a new vitality. He had a sober and realistic grasp of the realities of post-apartheid South Africa, distinguished by new labour legislation such as the Labour Relations Act and the Employment Equity Act. In terms of the new labour dispensation the union was in a crisis and in order to survive a drastic

and profound change of policy was necessary. The international as well as the South African economy was rapidly and irrevocably changing from an industrial to an information-driven economy. In addition, the number of white-collar workers was beginning to surpass the number of blue-collar workers and the labour scene was rapidly changing from one consisting of industrially skilled workers to one dominated by so-called knowledge workers. For Buys it became clear that the MWU would have to plan and think anew in terms of strategic labour relations and management and that new expertise would have to be imported into the union. Thus the MWU would have to make a paradigm shift in its philosophy towards labour. Buys's role model was Kemal Atatürk, the founder of modern Turkey, who succeeded in transforming an under-developed Muslim country into a modern secular state. Buys's realisation that the CP lacked a realistic alternative for South Africa's racial problems was the turning point in his political thinking (MWU General Council Minutes 1998:7,18; Buys 2001). Buys's change of heart can also be regarded as a desire to move from a position of being an "oppressor" in the apartheid South Africa to being a non-victim and a contributor rather than a loser in the new political and economic environment.

Buys expounded a new vision in terms of strategic thinking. In view of changed circumstances the MWU would have to rethink its strategy, modernise, reposition and reinvent itself, as it were. Expertise from within the union, as well as externally, would have to be utilised in order to initiate a strategic master plan, known as Wenplan 2002, for the next five years. Buys did not regard the MWU as an institution still consisting of a group of reactionaries fighting for a better past, but rather as a modern organisation working and striving for a better future for all its members, while taking cognizance of the realities of South Africa. The MWU would have to establish itself as a leader on the labour front and position itself strategically at the forefront of all aspects of labour relations. A big problem was affirmative action, which Buys regarded as unfair racial discrimination towards whites. Although recognising its validity, the MWU did not approach the issue of affirmative action from a redress point of view. In championing the rights of white workers they relied on the new South African Constitution. They would have to develop a comprehensive and practical strategy to counter the negative effects of affirmative action. This strategy included court action in cases of discriminatory and unfair labour practices. Initiatives for entrepreneurship and job creation, as well as alternative careers and compensation schemes for young people and those who were forced to take retirement packages, would have to be investigated and promoted. To create new jobs for retrenched workers, a business arm would have to be established.

The new strategic planning covered the whole spectrum of labour relations. Therefore new structures would also have to be created within the MWU. As a first phase of strategic planning, union representatives would be empowered by in-service training in labour relations. A new department for training and development would have to be established within the MWU to manage the training strategy. In addition, a strategic labour council, consisting of researchers and advisers, would have to be established in order to provide the union with research and support services on labour issues. Lastly, Buys also realised that, since the era of the information revolution and information economy has dawned, it has become imperative that union personnel should be adequately trained in information technology. Thus, the MWU's information management system was upgraded and modernised in terms of its computer network. A new communications department for internal and external communication was created, the legal department was extended and a new marketing department was

envisaged (MWU General Council Minutes 1998:4-5,8-13,17-18,77; MWU Executive Council Minutes 26.8.1998:13; 28.10.1998:8; Buys 1997:1-2; Backer 2001:68-69).

Under Buys the MWU would position itself as a free-market trade union based on the models of the Christelik-Nasionale Vakbond of Holland, and similar unions in Germany and elsewhere in Europe. Buys was also in favour of so-called "stakeholder capitalism", where the labour force is involved in profit-sharing, as against the American model of profit-driven shareholder capitalism (Williams 2002:2).

In order to implement Buys's new vision and strategy for the MWU, a corps of young and energetic academically trained personnel were appointed. These were people with bachelor's degrees in industrial psychology, labour relations and communication, and it became clear that the MWU management was transforming from a blue-collar shop floor-driven union to a white-collar information economy-driven organisation (see MWU General Council Minutes 1998:8; 1999:37; 2000:10; Backer 2001:69).

The drastic restructuring did not take place without teething problems, though. The union's old bureaucratic structures and the composition of personnel had to be streamlined. There were too many staff members in terms of total union membership. If the MWU was to survive, the affordability of its officials would have to be based on business principles. Each section and union district became a cost unit of its own. The implication of the structural changes was that the operations of those units that were not making a profit would have to be curtailed so as not to affect the financial viability of the MWU as no cross-subsidisation of any unit could be tolerated. Thus "new blood" had to be infused and "dead wood" had to be pruned in the staff composition. The MWU's remuneration policy was still based on the outdated bureaucratic principles of service years and had to be revised in order to become more market-related. In future the expertise and competence of staff members were to be evaluated according to a system of merit. To comply with the new South African constitution, in which racial discrimination was prohibited, the MWU's own constitution had to be adjusted accordingly. The word "white" had to be scrapped from the constitution as no institution could restrict membership to a specific race any longer. In future, the MWU would have to uphold its predominant Afrikaans character while remaining free from any inclination towards racial preference (MWU Executive Council Minutes 17.12.1997:28; 26.8.1998:8; 28.10.1998:3-7,12; 25.11.1998:3-4; 26.5.1999:5-7,9).

Of the MWU's thirteen competitors in the white labour market in 1995, only three remained by 2000, two of which were struggling for survival. Since 1991 the labour market had shrunk by one million jobs and the information revolution and new management practices were changing the economy as well. Large-scale rationalisation of personnel in industry and early retirement also affected the numbers of trade unions such as the MWU. There were no large industries left still to be conquered as far as union organisation was concerned and even traditionally large trade union-orientated industries began to fall into decline. The resolve of the MWU, with its 60 000 members (1995 figures), to reform and reinvent itself in the midst of a changing labour scene was therefore timeous (MWU Executive Council Minutes 31.5.2000: 4).

The MWU's restructuring was based on the model of the Histadrut, an Israeli super trade union and labour federation that Buys had visited on a tour to the Middle East. The Histadrut was founded by David Ben-Gurion in 1920 to solve an unemployment crisis in Palestine. It became involved in education, job creation and general services, and almost functioned as a state within a state. Factories, which processed agricultural products from the kibbutzim, were erected with Histadrut pension funds. Kibbutzim,

hospitals, schools, banks, sporting facilities, business enterprises, assurance companies, wholesale companies, chain stores and medical and pension schemes were managed by the union's affiliates and divisions, which provided jobs for almost one million people. By 1998 the Histadrut was still the largest employer in Israel and owned 20% of the country's economy. Employees in Histadrut enterprises earned more than other workers in Israel and they were running their own businesses. Buys was therefore of the opinion that the MWU could take a feather from Histadrut's cap and build its plans for the future on that model (Buys 1998:6; Buys 2001; Backer 2001:69).

Since 1998, therefore, a series of comprehensive initiatives, many of which were similar to the Histadrut model, were launched to transform the MWU from a trade union into a labour movement and service provider based on a three-pronged approach. Firstly, a vigorous national recruitment campaign was undertaken to augment the union's numbers and also to cater for individual members who wished to join the MWU. The campaign made use of election-style posters appealing to workers: "Times have changed. You need the MWU now". Pamphlets, newspapers, presentations by means of overhead projectors, agricultural exhibitions and a bilingual marketing video were utilised to reach potential members. The recruitment drive proved to be a huge success as a significant number of new members from city councils, and especially workers from Telkom, Eskom and other employers in the Western Cape, signed up. Uniklub, a separate division for individual members, was established – the first of its kind in South African trade unionism. It made provision for unorganised individuals and smaller groups of workers who were also in need of trade union protection. Undoubtedly Uniklub must have filled a great gap in trade union organisation as this newly created section of the MWU grew by a phenomenal 8 000 members within the first two years of its existence (MWU Executive Council Minutes 26.5.1999:15-16; 29.9.1999:32; Backer 2001:69-70; Cant & Machado 2002:48-49).

In addition, an MWU marketing emblem was designed which symbolised the union's credo. The letters M and W, in yellow, were superimposed to refer to the union's name. The spaces between the two letters formed two blue diamonds, representing the power of its members. A white stripe between the letters depicted "the continuous role of the MWU in the history of South Africa". The colour yellow was a reference to the union's origins in the mining industry, while the colour blue symbolised strength (Hermann 1999:9,11). A bilingual Internet website was created in order to enhance public access to information about the MWU. The purpose was to communicate important information about the MWU to union members swiftly and on a daily basis. The creation of *Soldeer*, (2006) an electronic newsletter, made it possible for members to receive union news on a weekly basis. In 2006 this website was awarded second place (second only to a British website) in an international competition.

The second pillar of the three-pronged strategy was the launching of Unifonds, a comprehensive financial services group. The idea was to provide cheaper short-term insurance, a pension and medical aid scheme, group packages, death benefits, micro loans, and insurance and investment services to its members at competitive tariffs. Through Unifonds the MWU National Retirement Fund was established in partnership with Coris Capital. Fin-Q emanated from this venture in 2003. And in October 1999 an agreement was reached with Kopano Medical Care, whereby union members had access to the Fleximed product, which formed the basis of the MWU's own medical aid scheme. In 2001 a medical aid and brokerage venture was initiated under the name Solmark to provide MWU members and their families with affordable, quality health care. Personal bank cards for MWU members also created a virtual shopping centre.

According to Buys, the idea of the financial services group was to guide union members to economic independence in order to maintain control over their own savings (Hermann 1998:8; Backer 2001:70; Cant & Machado 2002:50; MWU General Council Minutes 2000:1 and 2002:25).

Another aim of the financial group was to generate capital from profits accumulated to initiate job creation as a third pillar in the new MWU structure. Profits generated from Unifonds were channelled to a job-creation network called Werknet. In conjunction with business experts, Werknet invested in job-creation projects, which in the light of the new Occupation Equity Act, affirmative action and retrenchments, became an urgent priority. Werknet aimed to create 100 000 job opportunities within a decade. To encourage such endeavours, a job-creation summit was organised to determine the extent of white unemployment and to discuss plans to create new jobs. In May 1999 Netmark, a labour brokerage and personnel agency, was founded as an affiliate of Werknet. By means of labour placements and labour leasing, skilled unemployed persons were assisted by being actively reintegrated into the economy.

By 2001 Netmark had already placed 1500 workers in companies such as the Department of Public Works, Sentrachem, Samancor, Iscor, Sasol, Cape Gate, MMC, Impala Platinum, Ingwe, Steinmuller, New Vaal, Goldfields and JCI Mining. Where retrenchments were unavoidable, a social plan was negotiated with employers that made provision for the retraining and business training of such workers. This served to avert permanent unemployment (Hermann 1998:8; Backer 2001:70-71; Cant & Machado 2002:51; MWU General Council Minutes 2000:14; 2002:23). Another enterprise of the MWU's job-creation arm was the establishment of Sol-Tech in January 2006 in Centurion, Pretoria. The union identified a large gap with regard to the training of workers in the labour market. Sol-Tech was the union's answer to the rising skills shortage in South Africa. In this way the MWU became the only trade union in South Africa which was also registered as a training institution (http://www.solidaritysa.co.za).

In contrast to its former strategy of reverting to protest actions against the introduction of affirmative action in the workplace, since the advent of the Buys administration the MWU has been pursuing a proactive policy. On the one hand, the union accepted affirmative action as an inescapable reality of the new South African labour dispensation, but on the other hand, it sought by means of scientific investigation to provide creative solutions for the victims of such policies. In February 1998 a conference on affirmative action was organised by the MWU and a task team was commissioned to develop solutions for those whites whose careers were detrimentally affected by this policy. In August 1998 a labour code consisting of 50 guidelines on fair implementation of affirmative action was presented to the portfolio committee on labour in Parliament. With this initiative the MWU tried to prevent the creation "of a new pool of skilled unemployed workers" in South Africa. Dirk Hermann edited a publication, *Die balanskant van "regstellende aksie"*, to portray the negative affects of affirmative action and to provide suggestions on how to deal with this controversial issue in a positive way. The MWU also planned a so-called equality agreement on affirmative action between the ANC government and the Afrikaans community.

In some instances the union's legal actions against affirmative action were successful. One such example was the high-profile Sarita van Coller case. Van Coller was a white female employee from Eskom who was unfairly discriminated against in her application for promotion. The court's ruling in the MWU and Van Coller's favour also contributed to an increase in union membership. The MWU regarded unfair affirmative action to be "institutional racism", "ethnic purification" and a "race-driven

transformation of the labour market", and submitted a comprehensive report on this matter to the National Conference on Racism in Durban in 2000. Although ANC politicians held a different opinion, the MWU's point of view was that affirmative action, as defined by the South African Constitution, imposed an impenetrable ceiling for whites with regard to promotion in the workplace. The union harboured fears that affirmative action might become a permanent feature of South Africa society, thereby encouraging many young whites to emigrate. Therefore the Human Rights Commission was requested to investigate this form of "neo-racism" in the workplace (Hermann 2000:3; Buys 2000:5,10; MWU General Council Minutes 2002:34-35).

In its new approach to contentious issues the MWU preferred to use constitutional methods to combat the neglect of Afrikaans as a language of communication in the workplace. Complaints against employers such as Eskom, Iscor, Sasol, Telkom, Transnet, the Department of the Interior, the Department of Public Works, the Post Office, the University of South Africa, Anglogold, the Gauteng Provincial Administration and the Witwatersrand Technikon were submitted to the Pan South African Language Council (PANSAT). These institutions were accused of using only English as a language of communication and of "disregarding the languages of the majority of their employees whose home language was not English". Eventually, after having to resort to the courts, the MWU was successful in forcing Eskom, Telkom, Transnet, the Post Office and the Department of Public Works to revise their language policies (MWU Executive Council Minutes 23.2.2000:11; 30.8.2000:33; Du Toit 2001:7).

6 Solidarity in the new millennium

In light of the MWU's transformation and restructuring to become a labour movement in the broader sense, the name of the organisation had to be reviewed. Since the 1990s the union had no longer been solely representative of miners, and with the dawn of the new millennium the name "Mineworkers' Union" had become an anachronism. Consequently, as a result of the merger of five unions, a new trade union entity, MWU-Solidarity, came about. These five unions were the MWU, the South African Workers' Union or SAWU (which was a name change for the old Iron and Steel Union), the Transport Union, the Denel Union and the Forestry and Plantation Management Union. Flip Buys also became the general secretary of MWU-Solidarity.

MWU-Solidarity's first press release presented a challenge to other white unions. It stated that with the establishment of MWU-Solidarity and its 93 000 strong membership, South Africa's largest independent trade union had come into being. Consequently, only two trade union movements could remain in South Africa, namely MWU-Solidarity and COSATU. According to Buys, MWU-Solidarity's exceptional growth was the result of its post-apartheid stance and its stated intention to protect Afrikaner worker interests. The existing trade union model was out-dated, therefore a reorganisation of its structures had become imperative. Unlike in the 1980s, when the union was aligned with right-wing political groups, it had repositioned itself completely outside of party politics and followed "mainstream policies" instead. MWU-Solidarity's continued growth was all-important in serving as an "antipode" and protection against discrimination towards the Afrikaans minority. Therefore it would also cater for the Afrikaners' cultural needs. The balance of power between the (black) majority and the Afrikaans minority had become considerably distorted since the promulgation of the South African Constitution of 1996 and by 2001 companies were able, "without much obstruction", to discriminate against minorities. Thus a greater equilibrium between

these powers was imperative. While opposition parties were unable to fulfil such a role, organizations within civil society such as MWU-Solidarity would have to bargain for the Afrikaans minority (Du Toit 2001:8).

The "Solidarity" part of the union's new name was derived from *Solidarinosc*, the Polish union established in 1980. Although the MWU did not have any historical or formal links with the Polish union, it decided to adopt this name because *Solidarinosc* served as an example of a labour organisation which formed a power bloc in opposition to the unpopular communist regime of that country and was therefore associated all over the world with anti-communist trade unionism (Buys 2001; Du Toit 2001:8; Williams 2002:2).

On the one hand, the establishment of MWU-Solidarity also brought the old rivalry between the MWU and SAWU for new members to an amicable conclusion. Although the MWU was bigger and by 2000 financially more sound than SAWU, the latter brought 18 000 workers into MWU-Solidarity and created an opportunity to organise workers in the motor industry as well (MWU Executive Council Minutes 25.10.2000:1-2; 31.1.2001:7-8). On the other hand, MWU-Solidarity's successes and challenging statement with regard to its membership seemed to have elicited some envy in union ranks. The Federation of Unions of South Africa (FEDUSA), a racially mixed trade union federation representing some 530 000 workers from 28 affiliates, indignantly replied that the MWU had been refused membership of this federation earlier as a result of its conservative policies. However, MWU-Solidarity's successes in coaxing away some 50 000 workers from FEDUSA after 1994 was largely responsible for unleashing this criticism (Louw 2001:2; Mabasa 2001:4).

Ironically, MWU-Solidarity's structural changes would also lead to a physical change of address. Because of the excessively high maintenance costs of its ageing headquarters in Braamfontein, Johannesburg, declining property values and rental income, as well as the general social decay of the Braamfontein business district, the union eventually decided in 2001 to move its head office to Centurion, Pretoria. The relocation to Pretoria not only heralded the end of an era for the MWU, but was also symbolic of its own metamorphosis (see eg MWU Executive Council Minutes July 2000 – March 2001).

In September 2002 MWU-Solidarity was finally renamed Solidarity. It was argued that the union now catered for all trades and that other workers and unions would feel more comfortable about signing up under the new union name. The original recruitment emblem and colours of 1998 were retained, albeit in a somewhat altered format (MWU Executive Council Minutes 25.9.2002: 4). By 2002, five years after the implementation of Wenplan 2002, Solidarity was a totally reinvented, dynamic and transformed labour movement with federal characteristics, adequately equipped and geared to address the demands and challenges that organised labour would have to face in the new millennium. It had an estimated annual income of more than R50 million. Before 1997 the MWU was a relatively unknown institution outside the sphere of labour. At best its public image was that of a reactionary, racist and obstructionist remnant of a previous era, which stubbornly tried to resist becoming a part of post-apartheid South African society. In contrast, Solidarity became a prominent national role player in many spheres. The union had shaken off its reactionary right-wing image and adopted a centre-right position.

Since 1997 its numbers have risen dramatically, from 63 000 in 2000 to more than 130 000 by 2005 when 6% of the membership was female. Thus Solidarity became the

trade union with the largest growth curve in South Africa. The membership profile gradually changed from semi-skilled and skilled blue-collar workers to predominantly technically-trained workers in hi-tech jobs. Its scope was extended from 73 employers at the beginning of the 1990s to 1400 in 2002. Solidarity has 1000 branches in 7000 workplaces with 215 full-time employees in 25 offices country-wide. Therefore, a century since the establishment of the Transvaal Miners' Association, Solidarity could truly claim not only to be the largest and oldest independent trade union entity in South Africa[1], but also the biggest union for skilled and highly skilled workers. And by 2000 it had also become the biggest organised Afrikaans membership organisation (MWU General Council Minutes 2000:7 and 2002:12; Backer 2001:70-71; Cant & Machado 2002:43; http://www.solidaritysa.co.za).

Quite contrary to the MWU's vehement opposition to the legalisation of black unions in the 1970s and its anti-communist views, Solidarity adopted a pragmatic position towards the COSATU unions and the SACP. As early as 1993, the MWU had joined the National Union of Metal Workers of South Africa (NUMSA) in a strike at Highveld Steel in Witbank and later also at Columbus Steel in Middelburg. In 2001 the two unions rejoined in a strike at Highveld Steel on wage demands (Von Holdt 2003:264-265; Von Holdt 2005:70; Matlala 1993:8-10). In 2000 the MWU and the National Union of Mineworkers (NUM) signed a cooperative agreement on matters of mutual interest. These included an agreement to prevent the spread of AIDS. Henceforth Solidarity and COSATU unions such as the NUM, NUMSA and the Communications Workers Union, jointly organised strikes and pacts of cooperation on issues such as wages, occupational safety, employees' benefits and job security. Solidarity also gave moral support to COSATU in its demonstration against human rights violations in Zimbabwe (see eg Nel 2002:51,128-129; Du Plessis 2001:18; Du Toit 2005:8).

As evidence of its commitment to cooperate where mutual interests were concerned, Solidarity also accepted an invitation to attend the SACP's conference in Rustenburg in September 2002. The union argued that the occasion offered them a forum to engage in dialogue with ideological opponents, who were influential partners in the government alliance, on issues such as affirmative action (MWU Executive Council Minutes 31.7.2002:23; De Lange 2002:11; Gunning 2002:1). Solidarity has honoured its social responsibilities towards the public in several ways and especially when the liquidation of the DRD goldmine in Stilfontein in 2005 left 6513 workers without an income. In conjunction with the Stilfontein community, Solidarity provided emergency relief and school feeding schemes to the value of R100 000. In this way, 3000 families and individuals, regardless of colour, received relief (Buys 2005:12; http://www.solidaritysa.co.za). In addition, Solidarity continued its traditional involvement with Afrikaner cultural affairs. The union became a partner of the education bursary fund of the Afrikaans Sunday paper *Rapport* by donating R100 000 for the training of Afrikaans-speaking teachers, regardless of colour. And in 2006 Solidarity established Afriforum to encourage minority groups such as Afrikaners which have begun to withdraw from the public sphere since 1994 to participate in public debate and civil actions (Buys 2006:16; Van Eeden 2003:4; O'Connor 2006:5).

In conjunction with the union's constitutional changes in 1998, whereby membership of Solidarity would henceforth be based on freedom of association only, the once exclusive focus on Afrikaners as trade unionists also shifted somewhat. In 2005 its website stated that, in terms of social responsibility, it was Solidarity's prime but not exclusive objective to support people in "white poverty" (MWU General Council Minutes 2000:8; http://www.solidaritysa.co.za). Not surprisingly, therefore, Coloured workers in

the Western Cape, especially civil servants who were negatively affected by affirmative action, began to seek the protection of Solidarity. By 2003 10% of its members were Coloureds. Probably the most telling example that in the new millennium Solidarity was a different union in terms of vision and mentality to the old MWU of the twentieth century occurred when it declared a dispute with Eskom in 2006 on behalf of a Coloured engineer, Leon Christiaans. Christiaans alleged that, as a result of black affirmative action, he was discriminated against when applying for a job promotion. However, judgment was given against Solidarity and Christiaans (De Lange 2003:1; Merton 2006:1).

In 2005 Solidarity bought a new head office in Botha Avenue, Centurion from Kumba Resources for R6.4 million (MWU Executive Council Minutes 25.5.2005 and 28.9.2005). Whereas the selling of the old MWU building in Braamfontein, Johannesburg represented the end of an era, the purchase of the new office building symbolied Solidarity's confidence in and optimism about the future.

Cant and Machado (2002:52) agreed that through innovation Solidarity has developed a new trade union model. For Solidarity, they claim, the requirement for survival is to continually develop this trade union model by means of creative ideas in an economy where knowledge doubles every eighteen months. As a trade union which successfully redesigned and repositioned itself amidst tremendous challenges, and which was able to shed the negative aspects of its past, Solidarity will surely meet these conditions.

7 The Implications of the changes from MWU to Solidarity

In terms of labour relations the MWU was renowned for its abrasive and sometimes hostile rather than amicable engagement with the state and employer organisations such as the Chamber of Mines. Under Arrie Paulus the union often reverted to brinkmanship tactics in order to obtain improved benefits for its members and compliance with its demands from employers by force rather than constructive negotiation. But as a result of its negative and obstructive right-wing image, the MWU began to stagnate after 1994. It became an isolated entity and was marginalised as a national role-player in the South African labour dispensation to the extent of becoming a mere shop floor union.

On the other hand, a major reason for the MWU's successes was the ability to change its tactics and strategy during crucial periods of its existence. Firstly, by extending its traditional scope to industries beyond the mining industry, the MWU succeeded in turning around dwindling membership trends. Solidarity could therefore justly claim to have become the largest independent trade union with the largest growth curve among labour unions in South Africa since 1997. In addition, it has served to counterbalance COSATU's dominance of the South African labour scene. Thus the creation of Solidarity has been an important development in also extending the scope of South African trade unionism, thereby ensuring a position for white workers in post-apartheid South Africa, albeit under non-discriminatory labour conditions.

A second crucial intervention responsible for the union's ultimate success was Flip Buys's tenure as MWU general secretary, guiding the organisation's subsequent transformation to Solidarity. These changes occurred at the same time as a change in the world economy to one that is information driven, and Solidarity's membership base changed from blue-collar semi-skilled and skilled mine and factory workers to highly skilled and technically skilled workers, including white-collar workers. In its strategic

repositioning the Buys administration began to deal proactively with the labour demands and challenges of the new millennium in a number of innovative ways. Thus a new collective negotiating strategy was developed in answer to the demands of the time. This strategy included issues such as productivity and individual performance. In order to counterpoise the negative effects of globalisation and the information revolution, Solidarity developed a comprehensive social responsibility plan, which included assisting members who had lost their jobs to be placed back in the active economy. Solidarity's broadening of its agenda, services, role and functions in order to be a mainstream organisation able to provide for the broad interests and needs of its members implied a strategic shift from collective bargaining only to being a collective bargaining as well as a service providing labour organisation. In order to increase Solidarity's horizontal and vertical density, one of the union's innovative strategies was to focus on the inclusion of white-collar workers and individuals who did not traditionally belong to unions, as well as expanding horizontally to include workers in existing firms who were not yet trade union members and also other subsidiaries of firms that were not yet organised. Solidarity's option of membership to individual employees in firms who were too few to be organised collectively was a first for trade union organisation in South Africa.

In accordance with its participative management style, the union's internal management structures were also changed in order to decentralise responsibilities and thereby improve ownership and accountability. In contrast to the MWU's autocratic management in previous times, this innovation had a remarkably positive impact on union-employee relations in general and on worker participation in Solidarity's actions and community-outreach social care initiatives in particular, as was evident in the dramatic increase of its membership and the extension of its scope to non-traditional labour structures since 1997. In this way Solidarity also became a community union in the true sense of the word. Thus the union has established an alternative model of trade union organisation that is suited to the labour demands of the new millennium. In terms of its structures Solidarity is transforming from being an industrial union to becoming a labour service organisation with federative features.

8 Conclusion

The MWU, albeit under the name of Solidarity now, is one of the few labour unions that can boast of having been in operation for more than a hundred years since its founding and that was able to survive apartheid South Africa. From an atomised nucleus of a few hundred mineworkers in 1902, union membership had grown to more than 130 000 by 2005. This in itself is one of the most remarkable achievements in South African trade union and labour history. As these are still early days since the metamorphosis of the old unyielding and racist MWU into the apparently progressive Solidarity, it is difficult to regard the transformation as anything but a "success story" at this stage. The Afrikaans press responded in a very positive way to what were perceived as a radical turnabout in the union's strategies (see eg Retief 2002:13). Even in progressive labour circles such as the *South African Labour Bulletin* the changes that Solidarity have introduced were discussed in receptive terms (see eg *SALB* 2003: 31).

Perhaps one of the key salient features of the reinvention of the MWU as Solidarity is the fact that the union has largely been able to shed the negative, racist image that organised white labour had acquired in apartheid South Africa. Its pragmatic approach of engaging with former "enemies" of white labour – such as COSATU and the SACP -

on shared worker interests, including work safety, job security and training, and its efforts to ensure that its membership base is no longer linked to gender or race, are indeed positive signs that Solidarity is positioning itself as a transformed and recognised labour organisation in post-apartheid South Africa.

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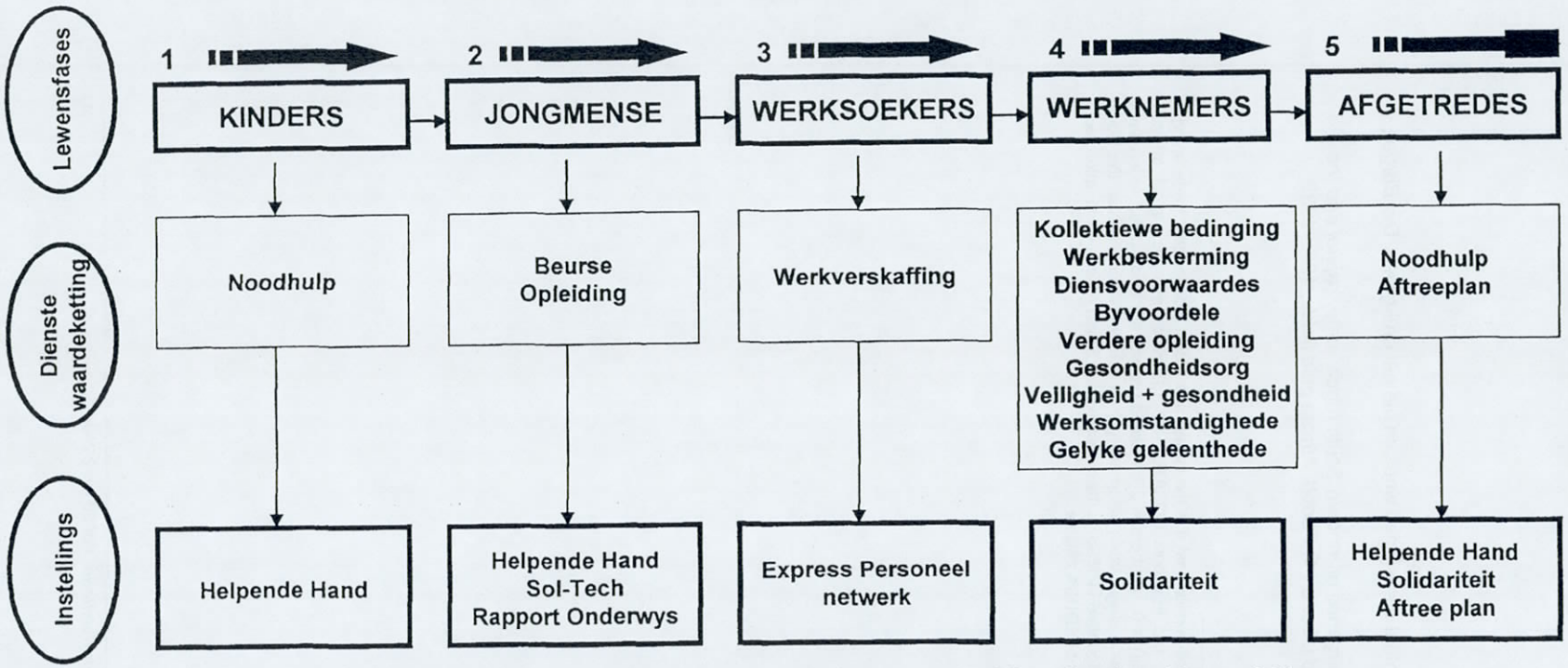
Endnote

[1] The premise for Solidarity's assumption that it is the largest and oldest independent trade union in South Africa is based on the fact that both COSATU, with 1,8 million members in 21 affiliated unions, and FEDUSA, with 530 000 members in 28 affiliated unions, are trade union federations, whereas Solidarity functions as a single trade union entity. In a strictly historical sense, the South African Typographical Union, founded in 1898, is the oldest existing South African trade union, but it functions as a non-independent FEDUSA affiliate.

Solidariteit lewenssiklus en waardeketting

Strategie: Dienslewering in elke lewensfase



Ondersteun uitvoering van strategie deur arbeid en kapitaal te mobiliseer

Solidariteit
Helpende Hand
Solidariteit Sakebeen

Korttermyn groepskema	-	Sol Gesondheidsorg
Personell –Express	-	Sol-Tech
Solidariteit eiendomme	-	Centriq Begrafnisdienste
Fin-Q	-	Vakansieklub

Solidariteit
Solidarity

Solidariteit se tienjaarplan

Ons word baie gevra wat Solidariteit se plan vir die toekoms is. Hierdie vraag spruit gewoonlik uit 'n kommer oor die toekoms onder baie van ons lede. Ons weet almal van die probleme wat so baie van ons mense moedeloos maak en selfs landuit dryf:

- Werksprobleme;
- geweldsmisdaad;
- korrupsie en oneerlikheid tot in die hoogste raadsale;
- stadsrade wat al swakker raak;
- ons betaal belastings en kry niks daarvoor nie;
- bekommernis oor ons kinders se toekoms;

Daar is veral onder baie witmense die vraag of daar nog 'n toekoms in die land is. Daar is nie maklike oplossings vir hierdie probleme nie, maar as ons niks doen nie gaan dinge net erger word. Ons kan nie die verlede herstel nie, maar ons kan ons toekoms beter maak!

Ons voorouers het nie net gesit en kla en wag vir iemand anders om iets vir hulle te doen nie. Hulle het sélf ingeklim en uiteindelik die suksesvolste land in Afrika gebou. Ek sal nie soos baie politici van ouds vir u valse beloftes maak en onrealistiese verwagtings oor wat Solidariteit gaan doen by u probeer skep nie.

Maar ek wil dit vir u sê: Solidariteit is 'n doénorganisasie, en ons wíl ons mense beskerm! Al is dit hoé moeilik, wil en gaán ons iets doen aan knelpunte soos:

- ons lede se diensvoorwaardes en werksomstandighede;
- die onbillike diskriminasie teen ons lede by baie firma's;
- die probleem dat ons kinders nie opleiding kan kry nie;
- dat ons jongmense so sukkel om werk te kry;
- dat die regering nie omgee vir ons veiligheid nie;
- dat baie van ons mense nie meer 'n toekoms sien nie.

Solidariteit se Tienjaar plan

Daarom het Solidariteit se hoofraad besluit om 'n tienjaar plan te ontwikkel, en dit daarna aan ons lede en strukture voor te lê vir bespreking, waarna dit finaliseer sal word. Ons werk en skaaf nog aan die plan, maar dit begin nou goed vorm aanneem, en kan aan die lede voorgelê word vir kommentaar. Ons droom is om Solidariteit uit te bou tot 'n magtige organisasie wat oor die wil en die vermoë sal beskik om ons mense doeltreffend te beskerm. Wat in die werksplek op elke terrein ons mense kan help, wat hulle werk kan beskerm, wat hulle diensvoorwaardes kan verbeter, wat 'n waghond oor hulle veiligheid en gesondheid kan wees, wat oor hulle menswaardigheid en selfrespek kan waak, maar wat ook buite die werksplek 'n groot rol kan speel omdat die toekoms nie makliker gaan word daarbuite nie.

Dit is lekker om te kan sê dat ons nie van nuuts af hoef te begin nie, omdat die basiese boustene van ons toekomsplan oor die afgelope jare in plek gekom het, en daar al goeie vordering gemaak is.

Die tienjaar plan bestaan uit tien punte, waarvan die meeste bekend sal wees aan ons lede.

1. **Suksesvolle vakbond**

   Die vakbond is nie vandag meer waar ons tien jaar gelede was nie, maar ons het nog ver om te gaan. Ons wil die beste vakbond wees wat daar is, want

ons lede het dit nodig en hulle verdien dit. Ons het die afgelope vyf jaar talle en talle nuwe dienste vir lede ontwikkel. Ek noem net 'n paar:

- grootste regsdepartement in die land;
- enigste beroepsbeserings en siektes afdeling;
- Dienssentrum vir 100% beskikbare diens in werkstyd;
- Landswye dienskantore met bykomende personeel;
- Navorsingsafdeling;
- Beste rekenaarstelsels;
- Laagste ledegeld teen beste diens;
- Kommunikasie afdeling as mondstuk vir lede;
- Kom huistoe-veldtog en buitelandse skakeling;
- Veiligheid en gesondheid afdeling;

Daar is nog groot planne om dienste aan lede uit te brei!

2. Beroepsopleiding

Ons wil binne tien jaar 'n netwerk van Opleidingskolleges hê wat ons lede en ons jongmense vir hulle beroepe kan oplei. Ons doel is om elkeen wat wil die kans te gee om hom of haar verder te bekwaam. Ons praat nie net daaroor nie, ons het al ons eerste kollege -Sol-Tech- begin, en wil vanjaar meer as 700 mense oplei! Kom kyk gerus by ons hoofkantoor hoe dit lyk. Ons baseer ons planne op die Amerikaanse Skrynwerkers vakbond se opleidingsmodel. Hulle lei jaarliks sowat 46 000 mense op! Die armoede vraagstuk van die dertigerjare is met moedertaal onderwys- en opleiding opgelos. Met goeie opleiding moet ons keer dat hier weer 'n nuwe armoedeprobleem ontstaan.

3. Werksverskaffing

Ons weet almal hoe ons jongmense en baie ander lede sukkel om werk te kry. Ons mik na 'n landswye netwerk van personeel agentskappe om ons mense te help om werk te kry. Ons het reeds die eerste drie kantore geopen van die internasionale groep Personell Express konsessies wat ons gekoop het. Ons wil teen die einde van die jaar reeds die vermoë hê om ons lede by elkeen van ons kantore landswyd te help met werk. Ons bou reeds aan 'n stelsel waar mense selfs oor die telefoon of internet werk sal kan soek.

4. Helpende Hand

Die staat kan nie vir almal sorg nie. Ons het baie geleer uit die Stilfontein krisis twee jaar gelede, toe die staat niks vir die mense wou of kon doen nie. Ons sal vir onsself moet sorg. Daarom het Solidariteit twee jaar terug die Helpende Hand op groot skaal begin uitbrei. Ons wil dit binne tien jaar uitbou tot 'n magtige maatskaplike organisasie wat ons mense in nood kan bemagtig met 'n nasionale hulpfonds. Danksy oor die 7 000 lede wat al bydra kon ons hierdie jaar R1 miljoen vir beurse vir ons lede se kinders gee om te studeer, by Universiteite en by Sol-Tech. Daarby het ons gehelp om die Rapport Onderwysfonds te stig, wat in sy derde jaar van bestaan reeds R4 miljoen aan beurse uitbetaal het sodat oor die 300 kinders kon studeer. Ons gee ook noodvoeding aan meer as 40 laerskole van ons gemeenskappe landswyd .

Ons wil volgende jaar R2 miljoen vir beurse gee, omdat ons oorval word deur aansoeke vir studiehulp. Kom help asb om by te dra, ons vra nie baie nie, maar baie klein druppeltjies maak die Vaaldam vol! Ons droom is om geen honger skoolkind in ons gemeenskap te hê nie, en dat daar opleidingsgeleenthede vir almal moet wees!

5. **Lede dienste**

Solidariteit se strategie is om 'n dienste vakbond wees. Die strategie spruit uit 'n besef dat ons nie van alles afhanklik van die staat en groot maatskappye kan wees nie, omdat hulle ons nie altyd wil of kan help nie. Hierdie plan is daarop gemik om ons ledegemeenskap se afhanklikheid van die staat en werkgewers te verminder, deur hulle te help om meer selfstandig te word. Daarom wil ons Solidariteit uitbou tot 'n "Dienste vakbond". Dit beteken dat ons "Selfdoeninstellings" rondom die vakbond moet skep om bykomende dienste aan ons lede te lewer, soos bv die Helpende Hand reeds maatskaplike dienste soos studiebeurse aan ons lede se kinders lewer.

6. **Solidariteit Sakebeen**

Ons het enkele jare gelde 'n sakebeen gestig om dienste aan ons lede te lewer en om geld bymekaar te maak om ons tienjaarplan te befonds.

Dis lekker om vandag te kan sê dat ons sakebeen baie goed vorder. Ons doel is om dit verder uit te bou tot 'n kapitaalkragtige groep met die nodige fondse om werklik 'n verskil te kan maak.

U ledegeld befond nie hierdie plan nie, die sakebeen het die kapitaal van twee miljoen verskaf om Sol-Tech te begin, om die personeel agentskappe te koop, en om baie van die ander dienste te befonds.

Ons wil oor tien jaar ons eie mediese fonds en netwerk van hospitale hê om bekostigbare gehalte mediese dienste aan ons lede en hul gemeenskap te lewer. Ons wil ook ondersoek doen na veilige aftree oorde vir ons ouer mense, en ons kyk ook na 'n netwerk van vakansie oorde waar mense teen 'n goeie prys vakansie kan hou.

7. **Sambreel organisasie**

Daar is nie nou 'n politieke oplossing op die horison nie. Ons getalle is te min en ons is te verdeeld. Maar dit beteken nie ons hoef moedeloos te word nie. Daar is baie organisasies wat soos ons glo maar wat op ander terreine bedrywig is. Ons moet hulle almal saamtrek in 'n samewerkende sambreel liggaam om ons belange beter te kan beskerm.

8. **Grondwetlike beskerming**

Ons het 'n grondwet met baie regte maar wat nie in die praktyk leef nie. Dit help nie die grondwet waarborg gelykheid, taalregte en veiligheid maar in die praktyk gebeur die teenoorgestelde nie. Ons moet ons grondwetlike regte beskerm, en daarvoor moet ons Solidariteit sterker maak!
Ons het AfriForum juis gestig om die regte wat ons as burgers en belastingbetalers het te beskerm!

Ons doel is nie om in vyandskap met die regering te leef nie, ons moet ons skakeling met hulle verbeter met die hulp van 'n parlementêre skakelkantoor wat beplan word.

Ons sal egter saam met ander goedgesinde organisasies met die regering moet onderhandel om die knelpunte wat bestaan op te los, byna net soos vakbonde met besture onderhandel oor kwessies wat werknemers raak. Dit moet uitloop op 'n nasionale opvolgskikking met die regering.

Ons moet die demokratiese ruimtes wat daar vir ons bestaan beskerm en verbreed!

9. **Solidariteit Internasionaal**

Ons moet ons bande met buitelandse vakbonde wat ons waardes deel uitbou. Ons moet ons bande met die miljoen Suid-Afrikaners wat emigreer het uitbou. Die Jode in die diaspora het meer gedoen vir die Israeli's as Israel self. Ons moet ons bande met ons stamlande weer optel. Ons moet vriendskapsbande met goedgesinde buitelandse instansies aanknoop. Ons moet fondse uit die buiteland bekom om ons mense op te lei en om werkskeppingsprojekte te befonds. Die lot van die boere in Zimbabwé is 'n les dat mens nie alleen in die wêreld kan staan nie!

10. **Samewerking en bemagtiging**

Ons leef nie alleen in hierdie land nie, en ons mag onsself nooit isoleer nie. Terwyl ons vir ons eie mense veg, kan ons onsself nie afsluit van die geweldige swart armoede in die land nie. Daarom moet ons na maniere soek om samewerking met die staat en swart groepe te verbeter, en moet ons kyk wat ons kan doen om hierdie arm mense te bemagtig. Dit beteken beslis nie dat ons saamstem met die huidige elite bemagtiging van die regering of onbillike diskriminasie nie. Dit beteken net dat ons moet besef dat niemand veilig kan slaap as sy buurman honger is nie.

Hierdie is maar net enkele gedagtes oor Solidariteit se tienjaarplan. Die kern is dat ons 'n suksesvolle minderheidsvoertuig in 'n moeilike meerderheidsomgewing sal moet kan wees.

Afsluiting

Dit is goed dat ons weer ons koppe begin optel en weer spog oor ons leiers van die verlede, leiers soos Generaal De la Rey. Maar onthou, elke geslag is verantwoordelik vir sy eie tyd, want 'n volk is net een geslag diep. Dis nou óns verantwoordelikheid om vir ons kinders 'n land agter te laat waar hulle 'n veilige en voorspoedige toekoms kan hê.

Daarom- kom ons vat die voorbeeld van De la Rey, kom ons wees almal saam óns geslag se De la Rey's waarop ons kinders en kleinkinders trots sal wees- omdat ons toe dit óns beurt was vir hulle 'n veilige toekoms geskep het!

Flip Buys

Laat indiening kom werker duur te staan

Sake Beeld 16 April 2007

Philip de Bruin, Kaapstad

Dit is beslis nie net werkers wat regte het wanneer hulle klagtes oor hul ontslag na die kommissie vir versoening, bemiddeling en arbitrasie (KVBA) vat nie – werkgewers het net soveel regte.

Een van daardie regte is dat die kwessie so gou moontlik afgehandel word en dat 'n werker gevolglik nie toegelaat sal word om hofstukke sonder baie goeie rede laat in te dien "en doodeenvoudig niks anders doen as om sy aansoek om heraanstelling en terugwerkende betaling by die KVBA in te dien – en te verwag dat dit toegestaan sal word nie".

Dié streng berisping en waarskuwing aan werkers is gelewer deur mnr. Daniel du Plessis, 'n kommissaris van die KVBA, in 'n uitspraak waarin 'n werker van die veiligheidsmaatskappy Chubb in Kaapstad met die kous oor die kop huis toe gestuur is omdat hy sy stukke sonder goeie rede 146 dae laat by die KVBA ingedien het.

Mnr. Denzil Hartogh was agt jaar in diens van Chubb toe hy op 6 September ná 'n tugverhoor – wat hy nie eens bygewoon het nie – ontslaan is, het mnr. Lehandre Venter, Chubb se Wes-Kaapse bedryfstreekbestuurder, getuig.

Die vakbond Mewusa het namens Hartogh die saak na die KVBA verwys en aangevoer dat Hartogh onbillik ontslaan is. Die stukke is egter hopeloos te laat by die KVBA ingedien.

In sy uitspraak waarin hy Hartogh se aansoek verwerp het om kondonasie vir die laat indiening van die stukke, het Du Plessis dit duidelik gemaak dat hy die jakkalsdraaie wat Hartogh gegooi het om sy laksheid te verduidelik, verwerp.

"Werkgewers is daarop geregtig dat sulke sake afgehandel word. As ek toelaat dat hierdie geding aangaan, sal dit Chubb baie uit die sak jaag, geldelik en in die vorm van verlore werktyd."

Du Plessis het Hartogh se aansoek om kondonasie verwerp en bevind dat die KVBA geen jurisdiksie meer in die saak het nie.

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INCLUDING THE

INDUSTRIAL LAW REPORTS

WHITE v PAN PALLADIUM SA (PTY) LTD

LABOUR COURT (J3/26/03)

25 February 2005

Before OOSTHUIZEN AJ

Contract of employment—Employer-employee relationship—Existence—Definition of 'employee' in s 213 of LRA 1995—Not dependent solely on conclusion of contract recognized at common law as valid and enforceable—Person working for another, assisting him in his business and receiving remuneration qualifies as employee even if all terms regulating contractual relationship not agreed to.

Contract of employment—Formation—By e-mail—E-mail setting out offer of employment and salary and providing that formal contract to be entered into later—Employee commencing employment—E-mail constituting valid contract of employment.

Employee—Definition—Section 213 of LRA 1995—Employer-employee relationship—Not dependent solely on conclusion of contract recognized at common law as valid and enforceable—Person working for another, assisting him in his business and receiving remuneration qualifies as employee even if all terms regulating contractual relationship not agreed to.

Employee—Independent contractor—Whether employee or independent contractor—Person placing services at disposal of another on full-time basis, having no other employment during period, would be subject to disciplinary action for failure to carry out duties, no end to employment on completion of projects—Person an employee.

Independent contractor—Distinction between employee and independent contractor—Person placing services at disposal of another on full-time basis, having no other employment during period, would be subject to disciplinary action for failure to carry out duties, no end to employment on completion of projects—Person not independent contractor.

The applicant instituted proceedings against the respondent company on the ground of his alleged unfair dismissal by the company. The company contended that the applicant was an independent contractor and that no formal contract of employment had been concluded with him. The evidence indicated that the applicant had been sent an e-mail indicating that he was offered employment at a salary of R30 000 per month. The e-mail mentioned that on his arrival in South Africa a suitable employment contract would be drawn up for signature. The applicant commenced work without any written contract of employment being entered into. The applicant placed his services on a full-time basis at the disposal of the company and had no other employment or prospect of employment in that period. He would have been subject to disciplinary action had he failed to carry out his duties. There was no indication that, on completion of his projects, his employment would come to an end. The company contended that the applicant was an independent contractor, and drew the court's attention to the wording of an invoice submitted by the applicant which contained a reference to a consultancy fee.

The court found that the e-mail sent to the applicant setting out the terms constituted a contract of employment.

The court found further that, in terms of the definition of 'employee' in s 213 of the LRA 1995, the existence of an employment relationship was not dependent solely upon the conclusion of a contract recognized at common law as valid and enforceable. Someone who worked for another, assisted that other in his business and received remuneration could, under the statutory definition, qualify as an employee even if the parties had not yet agreed on all relevant terms of the agreement by which they regulated the contractual relationship.

The court found accordingly that, in the circumstances, the applicant had been engaged as an employee and not as an independent contractor.

Application to the Labour Court for relief for alleged unfair dismissal. The facts appear from the reasons for judgment.

Annotations

Cases

Southern Africa

Barnard v Celliers 1929 EDL 106 (referred to)

Big Dutchman SA (Pty) Ltd v Barclays National Bank Ltd 1979 (3) SA 267 (W) (referred to)

Bocherds v C W Pearce & J Sheward t/a Lubrite Distributors (1993) 14 *ILJ* 1262 (LAC) (referred to)

Cole v Stuart 1940 AD 399 (referred to)

Dickson v Acrow Engineers (Pty) Ltd 1954 (2) SA 63 (W) (referred to)

FPS Ltd v Trident Construction (Pty) Ltd 1989 (3) SA 537 (A) (referred to)

Goldblatt v Freemantle 1920 AD 123 (considered)

Laws v Rutherford 1924 AD 261 (referred to)

National Automobile & Allied Workers Union v Borg-Warner SA (Pty) Ltd (1994) 15 *ILJ* 509 (A) (referred to)

Pitout v North Cape Livestock Co-Op Ltd 1977 (4) SA 842 (A) (referred to)

Rosebank Television & Appliance Co (Pty) Ltd v Orbit Sales Corporation (Pty) Ltd 1969 (1) SA 300 (T) (referred to)

Smit v Workmen's Compensation Commissioner 1979 (1) SA 51 (A) (referred to)

Smith v Mouton 1977 (3) SA 9 (W) (referred to)

Von Breukelen v Von Breukelen 1966 (2) SA 285 (A) (referred to)

United Kingdom

Royal British Bank v Turquand [1856] ER 886 (applied)

Statutes

Labour Relations Act 66 of 1995 s 213 ('employee')

Adv D Graham for the applicant.

Adv M van Rensburg for the respondent.

OOSTHUIZEN AJ: The applicant has instituted proceedings based on his allegedly unfair dismissal from the employ of the respondent. The respondent disputes that the applicant was an employee, and contends that the applicant was an independent contractor, engaged pursuant to a contract concluded between the respondent and the applicant. The applicant testified in support of his case and called one witness, Mr John Davenport. The evidence disclosed that the respondent was a South African subsidiary of an Australian company, and that Davenport was, up until 19 June 2002, responsible for the day-to-day running of the respondent's operations.

He reported to the chief executive officer of the Australian company, Mr Colin Patterson. As regards the hiring of staff, Davenport was able to give input and make recommendations but the final approval as regards the hiring of any employees rested with the management of the Australian company.

Davenport and the applicant were on terms of friendship, having worked for the JCI Group at some previous time. The applicant was a British citizen, but had worked in South Africa for some 30 years before returning to the United Kingdom in 2000. After he had returned to the United Kingdom, he remained in contact with Davenport on a social basis, and was aware of the position that Davenport held with the respondent. In the early part of 2002 Davenport mentioned to him that there were a number of new prospects, particularly in platinum mining, which were being investigated by the respondent, and that this might result in employment opportunities with the respondent. The applicant expressed an interest in such prospects. Davenport and the applicant discussed the possibility of his joining the respondent apparently on more than one occasion. By April or May these discussions had developed to the stage where the applicant had indicated the type of salary and fringe benefits package that he would be interested in, and Davenport had intimated that the respondent would probably be able to meet his package requirement.

On 14 May 2002 an e-mail was addressed to the applicant by Davenport, which read as follows:

'Dear Jeff

Re: Offer of employment

On behalf of Pan Palladium SA (Pty) Ltd I have pleasure in confirming my offer of employment to you on the following basis:

1 Position: Senior Project Geologist (Contract).

2 Package: R30 000 per month.

3 Tax deductions: PAYE and other deductions as required by law.

4 Travel costs: The company will reimburse you for your airfares and a fair and reasonable amount for shipping of essential personal effects.

5 Accommodation: The company will provide you with temporary accommodation in one of its studio apartments at Fountain Grove, Hyde Park while you find accommodation for yourself.

As discussed, I would wish you to commence employment at the earliest opportunity and should you accept this offer, on your arrival a suitable employment contract will be drawn up for signature.

I look forward to you becoming part of our team and to a highly successful working relationship.

Yours sincerely

John W J Davenport

Operations Manager—Africa.'

Davenport testified that this e-mall was preceded by various discussions as well as correspondence between him and Patterson. In the e-mails he suggested, with some force, that it would be to respondent's benefit to appoint applicant. Patterson's initial reaction was that it would not be fair to offer applicant a job until sufficient funds were realized for purposes of the intended operation of respondent. Patterson requested a budget reflecting the costs to the company if applicant were appointed. This budget was

furnished on 25 March 2002, and Patterson's response at that stage remained that 'we need to get the money first'.

In April 2002, Davenport testified, the funding became available when a company, African Minerals Ltd (AML) took up a 10% shareholding in respondent. This caused the discussions with Patterson regarding the appointment of applicant to move forward. On 13 May 2002 Davenport and Patterson agreed, during a telephonic conversation, that applicant would be hired. The aforesaid letter of 14 May 2002 was accordingly drawn and despatched to applicant by e-mail. On 16 May 2002, during the first telephone conversation, Davenport advised Patterson that the letter had been sent, although he apparently did not take Patterson through the contents thereof, nor furnish the Australian company with a copy of the e-mail.

The applicant confirmed that he received this e-mail, and telephonically indicated his acceptance of the offer therein contained. He also started making certain arrangements for his relocation to South Africa. Davenport had but a vague recollection of applicant's acceptance of the offer of employment, and his evidence pertaining thereto is of little value, but does not contradict what the applicant says.

A complication now arose. It became clear to Davenport that the acquisition by AML of an interest in the company had caused hostility and a degree of turmoil in the affairs of the Australian holding company. The board was apparently split into two camps, of which Patterson fell into one and Murphy into the other. This led to uncertainty about the future of the respondent's operations. This state of affairs was conveyed by Davenport to the applicant in an e-mail on 24 May 2002 where, after pointing out the development flowing from the acquisition by AML and his views relative thereto, Davenport says 'I have been trying to find out what effect this will have on me and you but have not yet had any satisfactory answers. Colin suggests you should hold off until the dust settles. No matter what, I undertake that PPD will pay all your expenses.' This elicited an e-mail from the applicant to Davenport on 27 May 2002 in which he asked, inter alia, the following: 'Also what about the original offer of employment, where do I now stand?' Davenport responded to this by stating 'this is an issue I'm trying to get a firm commitment on. For several months I have been trying to do the work of three men. Now one of the two biggest projects is taken away and maybe I need to do the work of one and a half men. There are other projects in the pipeline and money to undertake the work. I have not managed to get anyone to look this far ahead'.

In the same e-mail the applicant posed a further question, namely: 'We do understand that there is a complication with the original offer, but we really need to know exactly where we stand', to which the applicant replied 'I will try and establish this today but I do not want to push it as the easy answer for management is "no" when I want a "yes".' Davenport agreed, in cross-examination, that as at the date of the aforesaid e-mail, namely 28 May 2002, there was still uncertainty about the applicant's position, and that Davenport accordingly undertook to obtain clarity or possibly confirmation from the Australian company that White had been employed. On 28 May 2002 Davenport had a telephone conversation with Murphy during which he brought up the hiring of the applicant. Murphy indicated that there was no objection to that hiring. Davenport took this to

be a confirmation, and telephoned applicant, advising him accordingly. The applicant thereupon flew out to South Africa on the weekend commencing 31 May. Davenport fetched him and his wife from the airport, and they were lodged in accommodation arranged by the respondent. The applicant reported for duty on Monday 3 June 2002. At the outset he was given two tasks, namely to review and make recommendations in relation to two drilling projects then in progress. He did his work in the boardroom of the respondent's offices. He worked normal hours. Davenport expressed the view that, had he not carried out the tasks entrusted to him, he would have been subject to the normal disciplinary steps flowing from such insubordination.

As already mentioned, the letter of appointment of 14 May 2002 had contained a sentence reading: 'On your arrival a suitable employment contract will be drawn up for signature.' The applicant testified that he expected such a document to be ready for him on his arrival. It was not. He queried this with Davenport, who said that Murphy would have to see to this aspect. Murphy was at that time in the country and they were expecting him to call around at the office.

On 6 June 2002 the respondent paid an amount of approximately R19 000 to applicant as reimbursement for airfares and transportation of household effects to South Africa. One Flint, who apparently dealt with accounting matters from the Australian company's side, was made aware of this disbursement via the normal accounting reporting structures.

On 10 June 2002 Davenport took leave for a few days. While he was absent, the applicant ran the office more or less on his own. He operated the computer and answered the telephone. During these days he had the key and access security code at his disposal.

Davenport returned from leave on 14 June 2002. He stated that he had spoken to Murphy, who had indicated an intention (or possibly suggestion) that the applicant be employed at a daily contract rate of R1 500 and not a monthly basis. Applicant was unhappy with this. He wished to discuss the proposal concerning the daily rate with Murphy, and obtain information such as whether the daily rate structure would still include holidays, leave pay, pension arrangements and the other components found in the normal employment contract.

On 19 June 2002 a series of meetings took place at the respondent's offices at which two representatives of AML, Messrs van Schalkwyk and Kenwright, were present. Firstly there was a meeting with Davenport. Thereafter, the aforesaid two gentlemen met with applicant in the boardroom. Van Schalkwyk enquired what the applicant was busy with, and then asked whether he could finish the report on which he was working by the following day. They also stated that they would meet with the applicant the following day and talk to him about his future. The following day there was a further meeting attended by the applicant, Van Schalkwyk, Kenwright and Murphy. This was the first time that the applicant had met with Murphy. In the course of that he was told that there was no job for him, and that he would only be paid up until Friday. He was somewhat flabbergasted at this, and pointed out that his furniture was on the high sea, and that he had relocated to the country. He protested that respondent could not 'leave it like this' and pointed out that he would need assistance

to find another job. Some discussion ensued as to the predicament in which he had been placed, in the course of which Murphy asked the applicant how much money he would require. A figure was mentioned and Murphy agreed that the respondent would give him R10 000 for compassionate reasons 'until a final settlement is reached'. Applicant testified that he specifically recalls Murphy using the words 'final settlement is reached' when discussing this aspect.

There was a further development. On either 20 or 21 June 2002 applicant was asked to submit an invoice to the company for the days that he had worked, calculated at a rate of R1 500 per day. He asked the secretary to the type the invoice, which was presented to Murphy. Murphy assured him that the invoice would be sorted out upon conclusion of a trip to the United States which Murphy (and apparently Van Schalkwyk) were going on. The invoice was, however, never paid. A letter of demand was subsequently sent via applicant's attorneys, but this met with no success.

Two of the aspects raised with the applicant and his witness in cross-examination require further attention. Firstly, questions were put suggesting that no authorization had ever been given for the employment of applicant and that Davenport and applicant were aware of this. Reliance was placed on the fact that Murphy was a non-executive director. I am not persuaded that this is a sustainable answer to the applicant's claim. The respondent had three directors, namely Patterson, Murphy and one Miller.

The evidence clearly discloses that Patterson and Murphy (the majority of the board) were aware of the fact that the applicant had been employed, and raised no objection thereto. The respondent has placed no information before me indicating that Miller disapproved of the applicant's appointment, or that Miller had a right of veto in respect thereof. The undisputed evidence is also that Patterson approved the sending of the letter of employment to the applicant, even if the precise contents of such letter were not conveyed to him. The evidence before me establishes at least the existence of implied authority, which would in the circumstances be sufficient to bind the company to the contract (*Smith v Mouton* 1977 (3) SA 9 (W) at 18; *Dickson v Acrow Engineers (Pty) Ltd* 1954 (2) SA 63 (W); *Big Dutchman SA (Pty) Ltd v Barclays National Bank Ltd* 1979 (3) SA 267 (W); *Rosebank Television & Appliance Co (Pty) Ltd v Orbit Sales Corporation (Pty) Ltd* 1969 (1) SA 300 (T) at 303A–E).

There is no reason why, upon an application of the rule laid down in *Royal British Bank v Turquand* [1856] ER 886, the applicant would not be entitled to assume, as at 14 May 2002, that there had been proper compliance with all such internal formalities as might, at the time, be applicable to the functioning of the respondent's board of directors.

Secondly, reliance was placed on the fact that the formal nature of the contract with applicant,still had to be finalized. It was, for example, still in the air whether his employment would be VAT specific—a phrase, apparently, referring to structuring the employment contract in a VAT effective manner. Davenport's own relationship with the respondent was that a company controlled by him, Davmanex, would invoice respondent for Davenport's services, and receive payment. This would be a VAT bearing charge. There was some contemplation (at least in Davenport's mind) that a similar structure could be adopted in respect of the applicant.

This issue falls to be addressed at two levels. Firstly, contracting parties can, of course, agree that no legally binding obligation will come into existence between them until the conclusion of a written contract. The mere mention, during negotiations, that a written contract will be concluded does not evidence such an agreement. As was said in *Goldblatt v Freemantle* 1920 AD 123 at 128: A

'[I]f during negotiations mention is made of a written document, the Court will assume that the object was merely to afford facility or proof of the verbal agreement, unless it is clear that the parties intended that the writing should embody the contract. Whether parties intended to postpone the coming into effect of their contract until it was embodied in written form is, of course, to be decided on all the relevant evidence.' B

The fact that the parties began implementing their agreement, notwithstanding that they had not yet concluded a written agreement, is frequently an important indicator that the parties did not regard the existence of the written contract as a prerequisite for the creation of contractual obligations between them (*Cole v Stuart* 1940 AD 399 at 408; *Barnard v Celliers* 1929 EDL 106 at 112). C

In the instant case, the applicant was, with the full knowledge of Patterson, permitted to take up his duties at the respondent's head office, notwithstanding that no written agreement had been entered into. In my view, the evidence before me does not establish that the parties required a written contract as a prerequisite to the creation of any contractual rights and obligations between them. D

A second aspect to be considered is the respondent's contention that various terms of the contract were still to be finalized. Thus, for example, the evidence alluded to the fact that the parties still had to discuss the manner in which the employment relationship could best be structured, from a tax point of view. The possibility of employing the applicant via the vehicle of a close corporation was apparently under consideration. Reliance is also placed on the fact that discussions still had to take place as to the duration of the contract. The applicable legal principle was thus explained in *Pitout v North Cape Livestock Co-Op Ltd* 1977 (4) SA 842 (A) at 860B: E F

'The question which arises, accordingly, is whether the undertaking, given as it was during the course of uncompleted negotiations, had, or has been shown to have had, contractual force. Was the undertaking an offer made, *animo contrahendi*, which upon acceptance would give rise to an enforceable contract, or was it merely a proposal made by the appellant while the parties were in the process of negotiating and were feeling their way towards a more precise and comprehensive agreement? This is essentially a question to be decided upon the facts of the particular case.' G H

It is also necessary to bear in mind the statutory definition of the term 'employee' as contained in s 213 of the Labour Relations Act. The term is defined as meaning 'any person, excluding an independent contractor, who works for another person or for the State end who receives, or is entitled to receive any remuneration; and any other person who in any manner assist in carrying out or conducting the business of an employer'. The existence of an employment relationship is therefore not dependent solely upon the conclusion of a contract recognized at common law as I J

valid and enforceable. Someone who works for another, assists that other in his business and receives remuneration may, under the statutory definition, qualify as an employee even if the parties inter se have not yet agreed on all the relevant terms of the agreement by which they wish to regulate their contractual relationship. This proposition finds support, albeit of an indirect nature, in the decision of the Appellate Division in *National Automobile & Allied Workers Union v Borg-Warner SA (Pty) Ltd* (1994) 16 *ILJ* 609 (A).

The respondent closed its case without calling any witnesses. There is therefore no evidence that the respondent regarded the achieving of consensus on the income tax structure to be adopted, or the duration of the contract, as sine qua non for the existence of an employment contract. The undisputed evidence is, moreover, that as from the beginning of June 2004, the applicant worked for the respondent at its headquarters, on a full-time basis, under the control and supervision of Davenport. Patterson and Murphy were aware of this. The projects in which he was engaged were the respondent's projects, arising from its course of business. These circumstances appear to indicate the existence of an employment relationship within the statutory definition contained in s 213 but also that the parties were not minded to postpone the coming into existence of any contractual rights and obligations between them until such time as agreement had been reached on the aforesaid aspects.

It follows from the conclusion that I have reached that the e-mail sent to the applicant on 14 May 2002, setting out the terms quoted above, which were accepted by him, constitute a contract of employment. That being so, the various doubts raised in subsequent correspondence as to the applicant's position, which were highlighted in his cross-examination and in argument by the respondent, would only avail the respondent if the evidence established a consensual termination, which it does not, or a waiver by the applicant of his rights flowing from the contract concluded on or shortly after 14 May 2002. A waiver requires clear evidence that the applicant, with full knowledge of his rights, conducted himself in a manner unequivocally inconsistent with any intention to enforce such rights (*Laws v Rutherford* 1924 AD 261). The evidence before me falls far short of meeting these requirements.

What remains to be considered is whether, on the applicant's evidence, his relationship with the respondent was that of an independent contractor. Reference might, in this regard, be made to the contemplated possibility that the applicant's engagement would be via a close corporation, and to the fact that he issued an invoice to the respondent for his services. A number of authorities have considered and expounded on the circumstances under which a relationship is that of employer-employee, and as opposed to that the circumstances under which an independent contractor relationship can be said to exist. The factors taken into account by the courts include the degree of control and supervision exercised, the agreed basis of remuneration, whether the alleged employee placed his work and skill in their entirety at the disposal of the employer, and whether the object of the contract was the production of a task specific result rather than the rendering of personal services (*Smit v Workmen's Compensation Commissioner* 1979 (1) SA 51 (A); *FPS Ltd v Trident Construction (Pty) Ltd*

1989 (3) SA 537 (A); *Borcherds v C W Pearce & J Sheward t/a Lubrite Distributors* (1993) 14 *ILJ* 1262 (LAC)).

As from the beginning of June 2002, the applicant placed his services on a full-time basis at the respondent's disposal. He had no other employment or prospect of employment in that period. He had been promised remuneration at a certain rate in the e-mail of 14 May 2002, namely R30 000 per month, and was unhappy when, in mid-June 2002, a change to an hourly rate was suggested. He was waiting for Murphy to present him with a formal contract of employment. He was left in charge of the office when Davenport went on leave for a few days. Both the applicant and Davenport confirmed that he was obliged to carry out the duties entrusted to him, and would have been subjected to disciplinary action had he refused to do so. There was never any suggestion that, on completion of the specific projects on which he was working (or any other defined and designated tasks) his employment with respondent would come to an end. All of these aspects were raised in the evidence of the applicant, and not rebutted by evidence presented by the respondent.

The respondent drew attention, in argument, to the wording of the invoice which was presented, which contains a reference to a consultancy fee, as well as to the applicant's curriculum vitae where he states that he is in the respondent's employ as a consultant. The form of the invoice was suggested, at least in part, by the respondent. Moreover, it is not reasonable to assume that when the applicant drew these documents, he had in mind the distinction between an employee and an independent contractor, which was raised in the legal proceedings which he later instituted. Indeed, the evidence does not even clearly establish that he appreciated the exact legal nature of that distinction. I am not persuaded that the applicant was engaged by the respondent as an independent contractor.

The respondent also argued that the payment of R10 000 made to the applicant, following the discussion of 19 June 2002, was tendered and accepted in full and final settlement of all of the applicant's claims. If established, this would constitute a defence (*Von Breukelen v Van Breukelen* 1966 (2) SA 285 (A) at 289F–H). The applicant specifically testified that he did not accept this payment in full and final settlement, and that no suggestion was raised in the discussion with Murphy that it was tendered on that basis. Murphy did not give evidence to rebut the applicant's testimony. Furthermore, the payment was made by cheque and I would have expected the words 'in full and final settlement' to be endorsed thereon. No such cheque was produced to me, or referred to in evidence. I am unable to find for the respondent on this aspect.

In the result, I hold that the applicant was indeed an employee of the respondent. It is common cause that the respondent did not terminate the relationship for a fair and valid reason relating to the conduct or capacity of the applicant, and also did not embark upon the consultation process required by s 189 of the Labour Relations Act. The applicant's dismissal was therefore substantively and procedurally unfair.

As regards the amount of compensation, the evidence discloses that the respondent dealt with the applicant in the cavalier manner, completely disregarding the applicant's rights as an employee. The applicant's dismissal had grave financial repercussions for him, which lasted for a period in

excess of one year. I am of the view that compensation equal to the remuneration he would have earned over a ten-month period would be appropriate.

I make the following order:

1 The applicant's dismissal is found to have been procedurally and substantively unfair.
2 The respondent is directed to pay compensation to the applicant in the sum of R300 000 together with interest thereon from date of judgment to date of payment at the rate laid down in the Prescribed Rate of Interest Act.
3 Respondent is ordered to pay the applicant's costs of suit.

COMPLETE OFFICE FURNITURE (PTY) LTD and METAL & ENGINEERING INDUSTRY BARGAINING COUNCIL & OTHERS

CCMA (GA43280-04)

28 April 2006

Before MARCUS, Commissioner

Demarcation—Dispute—Section 62 of LRA 1995—Approach to be adopted at arbitration—Involves comparison of employer's activities with industry definition derived from bargaining council's certificate of registration—Where only some activities fall within definition must be considered whether these separate from or ancillary to main activities—Where ancillary employer not engaged in separate industry unless activities substantial.

Demarcation—Dispute—Section 62 of LRA 1995—To determine whether activities carried on in separate premises involving both furniture manufacture and metalwork residing under furniture industry or metal industry—Factors to be considered.

Demarcation—Dispute—Section 62 of LRA 1995—Where two bargaining councils compete for control over activities of single employer—Principles applicable when deciding whether separate demarcation appropriate.

The applicant furniture manufacturer sought a demarcation order in terms of s 62 of the LRA 1995. The applicant carried on business in two separate premises. At premises A, which fell under the jurisdiction of the Furniture Bedding & Upholstery Bargaining Council, office furniture was manufactured. At

POLYGRAPH TESTING

There has been a marked increase in South Africa regarding the use of polygraph testing and all indications are that polygraph testing will become a more prominent feature in our law. The use of polygraph tests are finding its way into disciplinary enquiries and are bringing with it a host of legal problems, especially relating to the admissibility of such tests as evidence.

This form of testing has been around for nearly 2000 years. The term literally means "many writings" and it refers to a device that makes a recording of physiological changes to respiration, blood pressure, pulse, and skin current or galvanic skin response associated with the sweating of palms, which changes take place as a result of certain psychological stimuli – in this instance the asking of questions. This in essence means that the person being questioned will fear being caught lying and his body will react reflecting that fear, which reactions are captured by the polygraph test. In other words, the polygraph test records changes generated by emotional stress that could be caused by a number of factors including, but not limited to lying. It does not, as such, record a lie but a physiological response generated by stimuli (the questions) put to the examinee.

What is the polygraph test?

The Polygraph Test operates on the premise that an inference of deception can be drawn from the changes in the physiological activity. Simply put, the theory is based on the assumption that physiological activity increases when a person is lying and the polygraph is used in detecting that deception.

There are generally two types of methods or tests used, namely the Relevant-Irrelevant Test (RIT) and the Control Question Test (CQT). The RIT test is regarded a very weak form of control and therefore the most used testing technique is "the control question technique". The theory behind the technique relies on the principle of psychological set that maintains that a person will channel his fears and anxiety to the area of biggest threat. Whereas a truthful person would respond more to the control questions on the test, the deceptive examinee will respond more to the relevant questions as they present the bigger threat. The test operates off the autonomic nervous system. "Autonomic" means automatic or involuntary, as it deals

with those aspects of the body that cannot be controlled. For example, if you are approached by an ominous figure in a dark alley, your heart contracts quickly, sending more blood through the body to provide nourishment so that it can function more effectively. Your liver secretes sugar for energy and the pupils of your eyes dilate so that you can see better. The palms of your hand perspire so that you can grasp more effectively. The polygraph test measures a similar response. If you lie you become afraid of being caught in that lie and your body automatically shifts into the emergency system.

Between two and seven relevant questions will be asked during any one examination. There are certain other questions of an irrelevant and control nature that will be asked during the actual examination. All of the questions are discussed with the examinee prior to the test being taken. There should be no surprises.

Three important variables that can affect the accuracy of the polygraph test are the qualities of the examiner, the mental and physical state of the subject and the setting in which the examination takes place. Evidently, the examiner is the single most important variable in determining the reliability and validity of polygraph tests.

There are three phases of testing:

- A preparation/pre-test interview phase;
- The collection of polygraph charts, and
- The post-test interview.

During the first phase the examiner gathers details in a non-accusatory interview on the case and the person to be tested. The test questions are developed and put to the examinee.

The second phase sees the collection of polygraph charts. Three types of sensors are attached to the examinee. These are the pneumographs (respiration), GSR (galvanic skin responses) and cardiograph (blood volume, pulse and blood pressure) sensors. The examinee is asked the test questions at least twice and his physiological responses are recorded.

At the post-test interview stage the examinee is questioned about his responses to any relevant questions.

A numerical scoring system is then used to analyse the examinee's polygraph charts to determine if there are any significant responses.

Is this test as reliable and accurate as everyone thinks?

This is where the problem lies! Many people have argued that not everyone reacts the same way when telling a lie. Just as some people are able to get away with lying to someone "face to face", so some people may be able to get away with lying to the machine? What about the stressful conditions under which these tests are administered?

According to Colin Tredoux and Susan Pooley, who have written a paper (Polygraph Based Testing of Deception and Truthfulness: And Evaluation and Commentary (2001): 22ILJ 819) there is to date no known device, which measures physiological or psychological activity capable of directly recording deception. These writers are challenging the theory and methods underlying the way inferences are made from the polygraph's finding on the physiological recordings.

They state that from a scientific point of view the control questions are not effective or true control questions, as they would have to demonstrate that any increase in the physiological activity would be solely attributable to attempts of deception. This is not possible as there may be any several other viable explanations for an increase in that activity. Therefore, the theoretical rationale of polygraph testing being able to measure deception is questionable, as the methodology used in conducting these tests do not measure op to certain scientific requirements. Several improbable assumptions form the basis of the tests and true forms of control are not used, which makes it unrealistic to rely on the observations of increase physiological activity. To conclude that this is solely attributable to attempted deception, in the face of other reasonable or plausible explanations i.e. stress and anxiety is improbable. There is therefore criticism of the accuracy rates of both tests, which may be as low as 50%, making it no more accurate than tossing a coin.

Another conservative approach has pegged polygraph accuracy at around 70 to 90% and argues that the test renders favourable evidence provided there is supporting evidence and the examiner's credential and other variables are scrutinised.

It is clear though that everyone accepts that great caution should be exercised when dealing with the accuracy and admissability of such evidence.

Position of the CCMA and the Courts

In criminal cases polygraph tests are not at all admissible. However, in a disciplinary enquiry the rules of evidence are not as strict as they are in criminal proceedings and would allow for lie detector tests to be used when dealing with employees. However, this does not give any indication of how much weight should be attached to the results obtained from polygraph testing. Generally polygraphs may be used as corroborating evidence – that is they may be used to support or strengthen other, more concrete evidence. If used on their own, it is highly unlikely that a court will attach significant weight to the results of a polygraph test.

The approach to polygraph evidence by commissioners is varied. In some cases, the results of polygraph tests have been found to be inadmissible. Yet there have been other cases where polygraph evidence has been taken into account where there has been corroborating evidence. There are still conflicting awards concerning the admissibility of expert opinion evidence of the polygraph examiners pertaining to whether in the absence of other evidence, the results are conclusive on their own. Some commissioners find that if there is no corroborating evidence supporting the results, the evidence is inadmissible on its own, other however have accepted the results without any other supporting evidence.

There seems to be no decisive case law in South Africa. CJ Munks, presiding officer of the Labour Court in *M Shinga vs Gilbeys Distillers and Vintners (Pty) Limited (Case no N11/2/10237, 1999, Durban) states that:*

'...the respondent's attorney points out correctly that "there is still no uniform approach to the admissibility of polygraph tests"'.

In *Amalgamated Pharmaceuticals Ltd v Grobler NO & Others [2004] 6 BLLR 537 (LC)* the CCMA commissioner was taken on review on various grounds, including that the commissioner had failed to consider that the employer held a reasonable suspicion against the individual respondents based on the fact that they had "failed"

their polygraph tests. Had the commissioner done so she would have found that the relationship of trust had broken down and would therefore not have awarded reinstatement. The Labour Court rejected this argument and stated that:

[12] Whether there is or is not a reasonable suspicion and breach of trust is a factual enquiry and depends on the circumstances of each case. The facts of this case are distinguishable from the case relied on by Mr Boda, namely, Algorex (Pty)Ltd v CWIU & another [1995] 10 BLLR 1 (LC).

[13] The mere fact that the applicant does not trust the individual respondents cannot, without more, be a basis for holding that the employment relationship had broken down. In a constitutional democracy implicit in the notion of a fair labour practice is the obligation to balance the respective interests of the parties. To punish the individual respondents with unemployment, even if this is accompanied with some compensation, without finding them guilty of any wrongdoing, is grossly unfair. The breach of trust, if there was such, was not caused by the individual respondents.

According to the Polygraph Association of South Africa, polygraph tests may not be interpreted as implying guilt but may be regarded as an aggravating factor especially where there is other evidence of misconduct. In other words, Polygraph Test results, on their own, are not a basis for a finding of guilt. It can only be used in support of other evidence.

Are they legal and what does legislation say?

There is currently no legislation to control the use of the test. It is provided that the employee consents in writing before the examination starts. The examination must be voluntary. It would be considered a contravention of the Constitution of South Africa to force a person to undergo a polygraph test. Constitutional considerations include possible infringements of the fundamental rights of individuals against unlawful search and seizure, self-incrimination and invasion of privacy.

Furthermore, chapter II of the Employment Equity Act 55 of 198 prohibits various forms of employment testing such as medical and psychological tests and other similar assessments.

In the United States of America the Employee Polygraph Protection Act of 1988 (EPPA) regulates its use in the labour environment.

While having to take a polygraph test in order to gain or protect employment is an invasion of privacy the other side of the coin is an employer's right to protect his property. Privacy, however, should give way only If the employer can prove sufficient interest.

Conclusion

Despite the controversy surrounding it, it is a reality that the use of polygraph testing is on the increase in South Africa. It is seen to be a quick and cost-effective tool in the fight against crime.

The main concern is that constitutional, legal and ethical standards in the treatment of employees should be guarded, while at the same time not losing sight that employers also have the right to protect their property. If polygraph testing is not employed in a correct manner within an organisation and if the results are not utilized in a responsible manner by management, there is enormous scope for misusing the polygraph. The wrongful application of polygraph testing/technology can have devastating effects on the lives of the persons involved. Employers need to guard against polygraph myopia and take into account that the polygraph is a means to an end and not an end in itself.

In South African it has become apparent for a need to promulgate protective legislation. This is because both in the private and public sector polygraph tests have been used to blanket screen employees, for extracting confessions, dismissing people who refuse to take the test as well as reducing insurance premiums making the selling of such policies more attractive.

It has been suggested that the Health Professionals Council of South Africa (HPCSA) should consider the issue of qualification, accreditation and statutory registration of examiners as in 1999 the Council established that the testing is unreliable and not suitable for workplace usage. Apart from the abovementioned it would also be worthwhile to create guidelines for CCMA Commissioners regarding the accuracy, admissibility reliability and weight given to such tests to enable a uniform standard against which this evidence can be viewed.

Acknowledgements:

1. Kerry Knowles, Polygraph Testing – is it as reliable and accurate as everyone thinks? (21/03/2002)
2. Debbie Collier, Truth or Dare? What lies beneath the polygraph test?
3. Polygraph Truth Verification Services CC, The Polygraph: some critical questions answered, and pre-employment screening
4. http://www.pasa. co.za

SOLIDARITY:

2 – 5 April 2007

DEKRA NORISKO INDUSTRIAL SOUTH AFRICA SHERCON 2007

Presented by: Chris Pienaar

Head: Training, Occupational Health & Safety.

Solidarity.

0861 25 24 23

Solidarity Occupational Health & Safety:

A Union perspective of Health & Safety in the workplace.

Solidarity Safety Statement:
"Solidarity commits itself to safety for all stakeholders. It is our view that a mindset change to behavioural, occupational health & safety is the only way to stop accidents / incidents and hearing loss, to improve safety performances". This includes an effective, continuous review / auditing program by involving all stakeholders in a transparent manner.

Behavioural safety and the link to effective Health and Safety:

- It involves significant workforce participation.
- Including participation in Safety review / auditing.
- Employers, employees (labour) and Management must deal with Health & Safety in a transparent manner.
- It targets specific unsafe behaviours.
- It is based on observational data collection.
- It involves a data driven decision making process.
- It involves a systematic, observational, improvement intervention.
- It involves regular, focused feedback about ongoing performance.
- It requires visible ongoing support from front line managers and supervisors.

What are the outcomes of behavioural safety?

- Lower number of accidents or incidents, near misses, hearing loss and property damage.
- Improved levels of quantified safety behaviours.
- Reduced accident cost.
- Effective maintenance.

- Acceptance of the system by all concerned.
- Generalisability (it addresses all health & safety challenges including review and auditing.
- Regular and rapid follow up.
- Increased skills in positive reinforcement.
- Nobody need to be in conflict with each other.

What Behaviour Safety is NOT about!

- Aversive control. (It is not a system of threats or a sword over your head).
- Focusing on incident rates without a focus on behaviour.
- Decisions made on the basis of prejudice.
- Disciplinary actions for accidents or incidents.
- Top down implementation.(Consensus and co-operation between management and the workforce is of the utmost importance).

What is a safety culture?

Safety culture is "the product of individual and group values, attitudes, perceptions, participation, competencies, and patterns of behaviour that determine the commitment to the style and proficiency of, an organisation's health and safety management.

What is a safety climate?

Safety climate on the other hand has been described as "*the workforce's attitudes and perceptions at a given place and time. It is a snapshot of the state of safety providing an indicator of the underlying safety culture of an organisation*". What is the specific, present mindset for Health & Safety in your workplace????

Health & Safety Benchmarking:

- Transparency.
- Objectivity.
- Participation.
- Continuous training.
- Awareness.
- Effective Tri-party structures.
- Quality risk management.
- Environmental importance.
- Effective compensation.
- "Know the rules of the game"

A look at some major things that goes wrong in the workplace:

A good example: Contractors.

What is wrong at present?

- Differential Induction training between Contractors and full time employees.
- Contractors abnormal hours of work.
- Contractor qualifications, experience, competency and skills levels.
- Recruitment, selection and appointment of Contractors.
- Contractor safety standards.
- Non compliance with safety specifications and standards.
- Unskilled Contractor employees working in highly specialised, complexed, plants without the relevant training.
- Maintenance pressure on Contractor employees.
- Maintenance shutdown procedures.
- Management attitude varying from plant to plant.
- Permit systems for maintenance work. (Open permits).
- Non transparent and non availability of plant safety statistics.
- General non transparency regarding the investigation of incidents.
- Ageing technical drawings of plants and poor updating of the same.
- Continuous reduction / cutting of personnel.
- Continuous loss of know how of personnel leaving employment for various reasons.
- Non availability of information after incidents at various plants.
- Extensive / lengthy periods of investigating incidents / accidents and fatalities.
- Non compliance of safety standards by various parties.
- Deviations of original design in plant maintenance.
- Time pressure during maintenance with insignificant focus on safety aspects.
- No safety committee to evaluate safety aspects before and during maintenance procedures.
- Negative attitudes of personnel due to continuous pressure, cost savings, and equipment not functioning correctly.
- Sub standard risk analyses before and during maintenance work.
- Installation of sub standard safety equipment.

What should improve?

- More Safety representatives.
- Election / designation of Safety representatives should be done on mutual consent between management and organized labour.
- Transparency in Health & Safety a must for continuous Safety improvement.
- Specialist contractor maintenance teams should be assembled on a permanent basis to do continuous maintenance on various plants.
- Improved after care for relatives of deceased employees as well as injured employees.
- Safety disciplinary procedures to be separated from the ordinary disciplinary

procedure.

Closure

Solidarity support Behavioural Safety as a positive approach and solution to the Occupational Health and Safety concerns of all our members and all other role players. It is time we all take hands to resolve what went wrong and continue in a positive mindset to the future.

I thank you.

Chris Pienaar

SOLIDARITY

0861 25 24 23

DIE STRANDLOPERS

Hierdie is die vierde verslag vanjaar

Politiek

- Die Midde-Ooste is steeds aan die kook en daar is geen einde aan die geweld in Irak of die politieke onsekerheid in die algemeen nie. Die fokus is egter tans verdeeld tussen die probleme in Irak en Iran met die Palestynse probleem wat ietwat aan die agterste speen suig.
- In Afrika bly die politieke spanning en woelinge in veral Somalië en Nigerië op die voorgrond met die Darfoer probleem steeds nie opgelos nie.
- Intussen bly die Zimbabwe probleme stilswyend onopgelos terwyl almal in Suider-Afrika blykbaar weet dat die Zimbabwiërs toegelaat moet word om self hul moeilikheidjies op te los.

Internasionaal

- Daar is tans weer twyfel oor die vermoë van die VSA ekonomie om nie te wankel en in 'n resessie te beland nie. Die risiko's wentel steeds om die eiendomsmark en die impak wat dit op die res van die ekonomie sal hê. Dit kan die bestedingsvermoë van die verbruiker nadelig raak en die finansiële sektor in die moeilikheid laat beland. Nogtans dui die jongste vooruitskattings daarop dat die VSA ekonomie vanjaar 'n reële groeikoers van sowat 2.3% kan haal en word steeds ondersteun deur sterk indiensname en voorspoed wat vanuit die aandelebeurs vertoning voortspruit. In Brittanje word 2.6% groei in 2007verwag; in Euroland en Japan 2.3%; in Duitsland 2.2%; en in China 9.8%. Die groei van meer as 11% in die eerste kwartaal in China dui egter daarop dat die owerhede hul keer sal moet ken om groei vanjaar tot minder as 10% te beperk!
- Intussen word verwag dat die gemiddelde inflasie in die VSA vanjaar 2.8% sal wees; in Brittanje 3.1%; in Euroland en Duitsland 1.9%; in Japan -0.2% en in China 3.3%.
- Die jongste aanduidings is dat VSA korttermynrentekoerse stabiel sal wees tot minstens in die derde kwartaal. Indien die ekonomie sterk sou verlangsaam in komende maande kan hierdie rentekoerse wel voor die einde van die jaar daal. Intussen het die risiko dat VK en Euroland korttermynrentekoerse verder sal styg toegeneem, terwyl Japanse koerse onveranderd sal bly tot die einde van die jaar. Indien die Chinese owerhede investering en algemene ekonomiese aktiwiteite wil beperk om te voorkom dat inflasie 'n toekomstige probleem word, word dit al hoe meer moontlik dat korttermynrentekoerse verder sal moet styg.
- In die VSA en Japan bly langtermynrentekoerse stabiel, maar het die afgelope tyd in die VK gestyg weens die vrese dat inflasie hier kan versnel. In Euroland styg hierdie koerse in samehang met die verwagte verdere styging in korttermynrentekoerse.
- Algemene kommoditeitspryse vind steeds ondersteuning van die sterk groei wat veral in die Chinese ekonomie ervaar word. Verder word hierdie pryse ondersteun deur die voortgesette hoë vlakke van likiditeit in internasionale markte wat veral gekoppel

word aan die lae vlak van Japanse korttermynrentekoerse. Hierdie situasie kan steeds tot die einde van die jaar voortduur.

- Die goudprys word ondersteun deur die voortgesette hoë vlak van likiditeit in die wêreldmarkte. In die algemeen word 'n sterk vertoning van die goudprys verwag solank die dollar verswak teenoor ander geldeenhede en likiditeit voortduur. Sommige kommentators verwag steeds dat die goudprys in die res van die jaar baie goed moet vertoon teenoor die algemeen verswakkende dollar.
- Die olieprys is die afgelope weke ondersteun deur die politieke onrustigheid in die Midde-Ooste – veral in Iran – asook in Nigerië. Die voorneme van die president van Venezuela om die oliebronne in sy land te nasionaliseer en so van buitelandse kapitaal en kundigheid ontslae te raak, kan die vermoë van die land om olie te produseer in die wiele ry en die olieprys in die algemeen ondersteun. Die jongste aanduidings is dat olie in komende maande op vlakke van $60/vat of meer sal verhandel gegewe die ekonomiese groei en likiditeit wat verwag word.
- Aandelebeurse word wêreldwyd steeds ondersteun deur die voortgesette goeie winssyfers wat deur maatskappye bekend gemaak word, grootskaalse oornames en hoë likiditeitsvlakke.

Plaaslik

- Die plaaslike ekonomie word steeds ondersteun deur sterk verbruiksbesteding, maar word ook al hoe meer gestimuleer deur die bestedingsprogramme van die openbare sektor wat aan die gang kom en indiensneming wat hieruit voortvloei. Soos hierdie programme aan die gang kom, sal dit 'n al hoe groter rol speel. Vertragings kan wel voorkom weens die gebrek aan kundiges om uitvoering te gee aan die programme. Die aanduidings is dat die besteding deur die openbare sektor tot minstens 2012 aan die gang sal wees. Eskom is van voorneme om R150 miljard in die periode tot 2012 te bestee en dit beteken dat hulle in hierdie tydperk wat reeds nou in April 2007 'n aanvang geneem het R2.5 miljard/maand sal moet bestee. (Ek weet dat ons die vermoë het om baie geld binne 'n ommesientjie uit te gee, maar ek vermoed dat dit tog baie gevra is van Eskom om so baie geld per maand te bestee.)
- Die bogenoemde besteding sal meebring dat die tekorte op die handels- en lopenderekeninge van die betalingsbalans in die res van die jaar en dekade groot sal wees. Indien besteding nie onder beheer gebring word nie, sal hierdie tekorte al hoe groter word. Die tekort op die lopenderekening word tans deur die invloei van buitelandse kapitaal finansier en solank die internasionale likiditeit op hoë vlakke bly, plaaslike maatskappye goeie winste verklaar en internasionale kommoditeitspryse goed vertoon, behoort hierdie invloei voort te duur. Solank die buiteland bereid is om ons te finansier, sal ons in staat wees om bokant ons produksievermoë te leef. Die betalingsbalansrisiko neem egter toe en die sentrale bank sal dit in gedagte moet hou.
- Die sentrale owerheidsbegroting sal gegewe die voortgesette sterk groei van die ekonomie steeds surplusse vertoon – selfs al word hoër as beplande salarisaanpassings toegestaan. Provinsiale owerhede se finansies bly onder beheer, maar plaaslike owerhede se finansiële probleme is steeds aan die toeneem sonder dat daar enige vooruitsig is dit noemenswaardig aangespreek sal word. Kundigheid bly 'n ernstige probleem op alle vlakke van die owerheidsektor.

- Inflasie bly binne die mikpunte van die sentrale bank. Aanduidings is egter dat die druk steeds aan die toeneem is met die Maart produksieprysindeks bokant 10%. Die risiko vir hoër inflasie word gekoppel aan die styging van voedsel- en energiepryse, salaris- en loonaanpassings wat hoër is as inflasie, sterk verbruiks- en owerheidsbesteding en kredietskepping. 'n Sterk vertoning van die rand teenoor alle geldeenhede kan ingevoerde inflasie wel beperk. My bekommernis is dat die hoë vlak van besteding wat in die res van die dekade beplan word, kan meebring dat inflasie in hierdie periode op 'n hoër as verwagte vlak kan wees.
- Die grootste uitdaging in komende jare sal wees om in die behoefte aan geskoolde en kundige persone te voorsien. Die formele onderwysinstansies sal beswaarlik in hierdie behoeftes kan voorsien en dit sal al hoe meer deur die privaatsektor aangevul moet word. Die tekorte aan opgeleide persone kan die voorgenome besteding deur die openbare sektor in die wiele ry en terselfdertyd opwaartse druk op pryse in die algemeen plaas.
- Die sentrale bank het my weer eens verras deur rentekoerse nie in April te verhoog nie en eintlik die boodskap te gee dat alles in die plaaslike ekonomie onder beheer is – nieteenstaande die voortgesette sterk groei in kredietskepping en geldvoorraad. Dit sal vir my 'n nog groter verrassing wees indien korttermynrentekoerse nie in die res van die jaar enigsins verhoog word nie.
- Langtermynrentekoerse word steeds beïnvloed deur die begrotingsurplus van die sentrale regering. Hierdie rentekoerse kan hoër neig indien inflasie 'n groter probleem word, maar sal andersins eerder sywaarts beweeg.
- Die aandelebeurs word ondersteun deur die sterk plaaslike ekonomiese groei, hoë mate van plaaslike en internasionale likiditeit, goeie maatskappyresultate, sterk kommoditeitspryse en sterk invloei van buitelandse kapitaal.
- Die rand vertoon sterk teenoor die algemeen swak dollar.

Beleggingsomgewing

- Die aanduidings is dat korttermynrentekoerse in die VSA sywaarts sal beweeg tot minstens die derde kwartaal van 2007. Daarteenoor word verwag dat VK en Euroland korttermynrentekoerse verder verhoog sal word. Daardeur sal die gaping tussen VK en VSA rentekoerse vergroot en tussen Euroland en VSA koerse vernou word. Intussen is die aanduiding dat Japanse korttermynrentekoerse tot die einde van die jaar stabiel kan bly. Die lande met groot surplusse soos die olieprodusente en China sal in hierdie periode na die beste opbrengs vir hul beleggings soek.
- Weens die rentekoersgapings en verwagte –bewegings in die res van die jaar, is die dollar tans in onguns by beleggers en spekulante. Daarom vertoon sterling en die euro baie sterk teenoor die dollar en die jen en kan hierdie geldeenhede verder versterk in komende weke. Die euro vertoon tans sterk teenoor alle geldeenhede en die tendens kan die uitvoergroei vanaf Euroland in komende maande in die wiele ry. Dit kan ekonomiese groei en indiensneming in die langer termyn benadeel.
- Die aandelebeurse van die wêreld vertoon steeds sterk weens die goeie en verwagte goeie maatskappyresultate. Die goeie vertoning van aandeelpryse word verder ondersteun deur die hoë vlak van internasionale likiditeit. (Dit geld ook internasionale

kommoditeitspryse.) Gegewe die verwagte tendens van Japanse rentekoerse sal hierdie tendense nie spoedig verander nie.

- Die plaaslike ekonomie word ondersteun deur sterk besteding wat sal voortduur in die afwesigheid van enige skerp rentekoers stygings. Die onlangse optrede van die sentrale bank dui nie op enige skerp rentekoersverhogings in die nabye toekoms nie.
- Die sterk vertoning van die ekonomie sal plaaslike aandeelpryse verder ondersteun.
- Ek is steeds van mening dat plaaslike korttermynrentekoerse verhoog moet word om die oormatige binnelandse besteding te demp en verbruik en produksie in groter balans te bring. Ons sal egter tot Junie moet wag om te sien of daar enige voorneme by die sentrale bank is om rentekoerse te verander.
- Die aanduidings is dat die invloei van buitelandse kapitaal voortgesit sal word in die voorsienbare toekoms en dat die rand daarom sterk sal wees teenoor 'n algemeen swakker dollar.

Ulrich Joubert
1 Mei 2007

Beeld, Woensdag 31 Januarie 2007

'Bemagtiging vra meer mense as wat daar is'

SA het te min professionele swartes om kwotas te haal

Jeanette Clark

Suid-Afrika het dalk nie genoeg swart professionele persone vir maatskappye om aan die bemagtigingskodes te voldoen nie.

Dr. Azar Jammine, hoofekonoom van Econometrix Treasury Management, het gister op 'n seminaar in Johannesburg gesê daar is 'n teenstrydigheid in die vereistes wat die kodes stel en die vaardigheidspoel wat beskikbaar is.

Die nuwe praktykkodes vir bemagtiging, wat in Desember deur die kabinet goedgekeur is, sou aanvanklik einde Januarie in die *Staatskoerant* gepubliseer word, maar is nou aangeskuif na volgende maand.

Die nuwe kodes sal meer duidelikheid gee oor watter mikpunte daar is vir bestuursposisies wat aan voorheen benadeelde groepe moet gaan.

In 'n opsomming van die kodes wat op die departement van handel en nywerheid se webwerf is, word 'n algemene mikpunt van 40% tot 50% van alle bestuursposte gegee wat deur swart individue gevul moet wees.

Volgens Jammine raak die vaardigheidstekort in Suid-Afrika ook die kanse vir suksesvolle voldoening aan dié vereistes.

"Van die sowat 24 000 gekwalifiseerde geoktrooieerde rekenmeesters is net 700 swart. Wanneer Indiërs en bruin mense ingesluit word, is die syfer na aan 2 000," sê Jammine.

Dr. Azar Jammine, hoofekonoom van Econometrix Treasury Management, het in Johannesburg gewaarsku daar bestaan 'n teenstrydigheid in die vereistes wat die bemagtigingskodes stel en die poel vaardighede wat beskikbaar is. Foto: SIDOKUE DAVIDS

Van die 1,6 miljoen skoliere wat in 1995 skool begin het, het slegs 528 525 verlede jaar matriek geskryf en net 351 503 het geslaag.

Jammine sê van die 25 117 wat matriekvrystelling met wiskunde behaal het, is slegs sowat 5 000 swart.

"Ek dink bemagtiging en regstellende aksie is noodsaaklik, maar dit moet reg in werking gestel word.

"Die fokus moes van die begin af eerder op onderwys en die ontwikkeling van vaardighede geval het, pleks van bloot 'n persentasie eienaarskap," sê Jammine.

Hy sê opvoeding in die land stuur op 'n krisis af.

"Altesame 21 000 nuwe onderwysers is elke jaar nodig om die onderwyser-tot-kind-verhouding in die klasse dieselfde te hou, maar net 5 000 onderwysers word jaarliks tot die poel gevoeg."

CHANGES TO THE EMPL(EQUITY REQUIREMENTS

Radical changes to the Employment Equity Act regulations have been promulgated, taking virtually everybody by surprise.

CHANGES TO THE EMPLOYMENT EQUITY ACT WERE PUBLISHED IN GAZETTE NUMBER 28858 AND ARE EFFECTIVE FROM 26 MAY 2006. THIS MEANS THAT THE EQUITY PLANS THAT ALL DESIGNATED EMPLOYERS MUST SUBMIT BY NOT LATER THAN 1 OCTOBER 2006, MUST COMPLY WITH THE NEW REQUIREMENTS.

BACKGROUND

The Employment Equity Act was promulgated in 1998 to eliminate unfair discrimination in employment and to allow equity procedures to be implemented that would redress the employment disadvantages caused by previous discrimination.

All employers with more than 50 employees were designated to comply with the reporting requirements of the Act which focused on black people (Africans, Indians and Coloureds), women, and people with disabilities.

Chapter II of the Act focuses on the prohibition of unfair discrimination, and specifies every area under the sun that one could possibly discriminate on, including the obvious ones of race, gender, colour, and religion. Interestingly, this chapter makes it clear that it is not unfair discrimination to either promote affirmative action as defined in Chapter III, or to prefer or exclude any person for reasons based on the inherent requirements of the job.

Chapter III deals with affirmative action, and requires designated employers to comply with specific requirements, including the obligation to:

> consult with employee representatives;
> analyse employment policies and practices to identify employment equity barriers;
> prepare plans to achieve employment equity;
> submit these equity plans to the Director General; and
> assign a manager to ensure implementation of the equity plans.

The Act goes on to prescribe powers to the Department of Labour to monitor, inspect and order employers to comply, with potential penalties ranging from R500 000 to R900 000 for non-compliance.

WHAT ARE THE CHANGES?

The changes affect the regulations to the Act that prescribe the requirements for submission of employment equity plans by designated employers. These changes are complex and far beyond the scope of this article to deal with in detail. However, the most important differences between the old and the new requirements are dealt with briefly below.

DESIGNATED GROUPS

Black people (Africans, Indians and Coloureds), women and disabled people (those with a long term or recurring physical or mental impairment sufficient to limit their employment prospects) have always been included into the designated group that is given preferential treatment by the affirmative action chapter of the Act.

The new regulation now restricts membership of this group to the same categories but only includes those who are RSA citizens:

> by birth or descent; or
> by naturalisation prior to 22 December 1993; or
> by naturalisation after this date if the person was prevented by the Apartheid policy from becoming a citizen prior to 22 December 1993. This is an important change, and a fair one – previously non-RSA citizens were given preferential treatment by the Employment Equity Act over RSA citizens in both designated and non-designated groups.

REPORTING CHANGES

The old regulations defined 10 tables for reporting - the new regulation defines 19 tables. Only one Numerical Goal Plan had to be submitted previously – now no less than eight Numerical Goal plans have to be submitted. These on their own are substantial increases to the administrative workload of each and every designated employer, but in addition to this, the layout of the reporting tables have been changed dramatically.

Another change is that employees now have to be categorised into either 'core' or 'support' functions and reported as such.

If a computerised Employment Equity system is used (and one wonders how it will be possible to produce these reports and plans without computerised assistance), substantial changes will have to be made, tested and implemented well in advance of the October deadline for submission of reports.

The new reporting requirements must be used for the October submission of Equity reports. Employers can apply to the Department of Labour for extension, but these applications have to be submitted six weeks ahead of the deadline – in other words by mid August!

CONSOLIDATED REPORTS

The old requirement made it optional for designated employers to submit either a

ROB COOPER REPORTS

DYMENT

consolidated report or a separate report if their operations extended across different geographical areas, functional units, workplaces or industrial sectors.

Now, employers with extended operations must submit a consolidated report indicating names of these units, workplaces or subsidiaries, and must also attach a separate report for each of them. It is difficult to decipher this wording – should the consolidated report include only the names of the different areas, or should it also include the full EEA2 and EEA4 reporting requirements? What does seem clear is that both consolidated and separate reports must be produced.

However, this remains a problematic area that is not solved by the changes to the regulations.

PROBLEM AREAS

Besides the consolidated reporting problem described above, there remain a number of other problem areas, most of them new ones created by the new regulations.

Briefly:

> The 'core' and 'support' reporting tables do not provide for White Males as do the other tables;

> The termination table doesn't provide for 'retirement' as one of the LRA recognised reasons for termination;

> The termination table doesn't specify whether non-permanent employees must be included or not;

> The Disciplinary Action table doesn't specify whether disabled employees must be included or not;

> It is unclear what periods should be used for 'goal' and 'target' numerical goals;

> There is no definition of what is the prescribed 'remuneration and benefits' amount that must be used for the Income Differentials reports; and

> It is not clear whether to include disabled employees and foreign nationals into the Income Differentials report or not.

It is unfortunate that these otherwise well-intentioned changes to the legislation have not been properly thought through.

WHAT ARE THE LATEST CHANGES?

Changes to the amended regulations have been made, but unfortunately the Department of Labour has not made these available at the time of writing this article. Their intention is to clarify the instruction for consolidated reporting and to define remuneration. For the detail we shall have to wait and see. How the Department of Labour expects payroll suppliers and employers to comply with new requirements by 1 October 2006 that have not (as at 15 August 2006) been finalised, heaven alone knows.

IN CLOSING ...

There were numerous problems with the original reporting requirements, so the fact that changes have been finally made is to be welcomed. If external stakeholders such as the Payroll Authors Group and the South African Payroll Association had been consulted for advice on the practical implementation of the proposed changes, the remaining problems could have been avoided.

As a last comment, in my opinion South Africa would have been a lot further down the path of employment equity had it not been for the rather dismal performance of the Skills Development process. If a skills pool had been available across all categories of people and across all industry sectors, I am convinced that by far the majority of employers would have willingly and happily complied with the creation of a workforce that broadly represents the demographics of our country.

Skills upliftment remains one of the biggest challenges facing our country.

HR/P Rob Cooper is the Chairman of the Payroll Author's Group of South Africa. He is a director of Softline VIP (www.vippayroll.co.za), and works closely with SARS and other statutory authorities on legislation affecting payroll and HR systems. Softline VIP is presenting a number of Speed Sessions around the country to inform employers of the requirements of the changes to Employment Equity.

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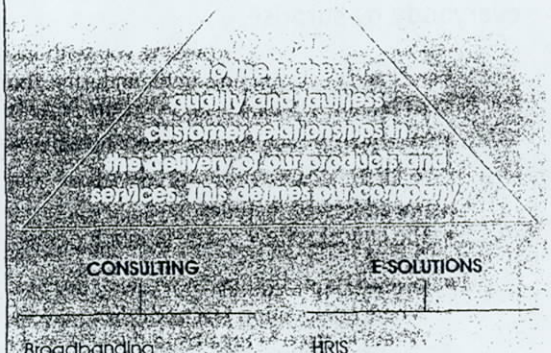

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Management: BEE

Ready for rating

● Start the BEE verification process

BY LEHOTLO NZAMA

The long-awaited broad based black economic empowerment (BBBEE) codes of good practice were unveiled in December last year, and there were some substantial changes to the codes released in December 2005.

The most significant change applies to qualifying small enterprises (QSEs) with turnovers of between R5 million and R35 million.

They will have the option of selecting four of seven BEE scorecard elements.

Micro enterprises or businesses with turnovers of R5 million and less, will be exempt from BEE compliance and will automatically be classified at the level four BEE recognition level.

PROCUREMENT POINTS

The level four recognition level means that an enterprise scores more than 65% on the scorecard, and its customers can classify 100% of procurement spent with the business as BEE spend for preferential procurement measurement purposes.

This means that for BEE procurement, level four enterprises are the most desirable enterprises from which to procure.

These changes mean that many QSEs who conduct business with government and other BEE conscious companies will have to become BEE compliant.

This article aims to assist QSEs to equip themselves for the step by making practical preparations and ensure that they are ready for rating, with an external agency or through their own internal methods.

> "Familiarise yourself with all seven elements of the BBBEE scorecard. If your business is a QSE, choose the four elements that will result in the best score."

The following steps for small businesses should save them time and money before the rating is performed. There are four steps to get ready for rating.

KNOWLEDGE

QSEs should familiarise themselves with the seven elements of the BBBEE scorecard.

Even though QSEs are only required to comply with four of the seven elements for assessment, they need to understand all seven elements to make an informed choice.

On the QSE scorecard, each of the selected four elements will be measured out of 25 points, comprising the final score out of 100.

The requirements for each element are:

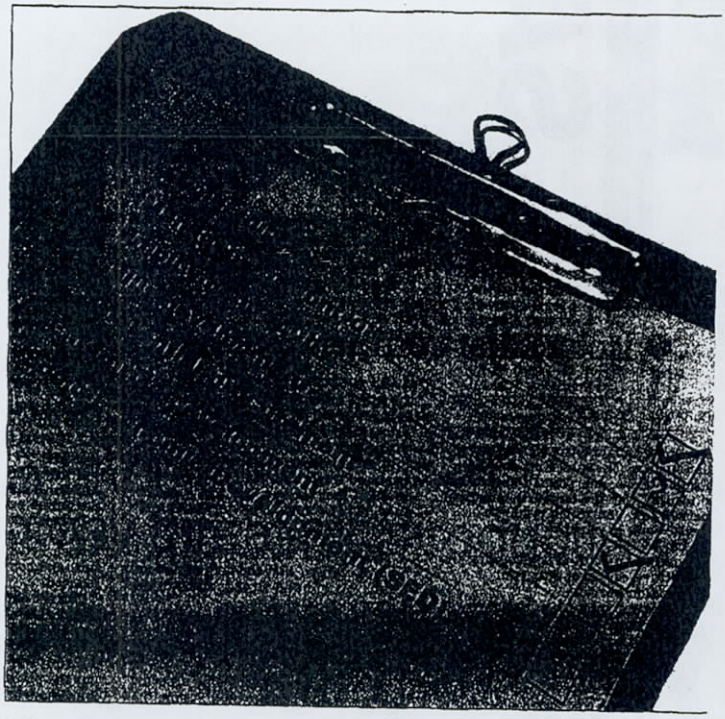
- Ownership – 25% ownership and voting rights and one additional voting right;
- Management control – 50.1%;
- Employment equity – between 40% to 70% for the various employment levels within the company;
- Skills development – 3% of payroll;
- Preferential procurement – 50% of total procurement;
- Enterprise development – 2% of net profit after tax (NPAT); and
- Socio-economic development (SED) – 1% of NPAT.

Based on the above indicators, prepare an initial assessment of the enterprise's BBBEE scorecard status.

This will provide the business with a baseline position of its BEE contribution.

PLAN AHEAD

Identify, collate and review all the documents that will be used to check the validity of the base line score.



Understanding the seven scorecard elements is the first step to a successful rating.

This exercise will provide a good idea of which information is readily available, which information cannot be identified and which information is not worth collating.

From this exercise, the enterprise can decide which four elements to select for BEE compliance.

The exercise will also assist the enterprise in its annual strategic planning, as it will have a better knowledge of strategic drivers that will impact their BEE compliance and require their focus.

GETTING RATED

A verification agency can be employed to perform a formal rating.

The SA National Accreditation System has embarked on a process to accredit verification agencies.

If business decision makers understand the codes, they can perform their own assessment. The department of trade and industry is developing an online information tool, while there are already programmes available.

By following these basic steps, small enterprises can save money.

Through a better understanding of BBBEE and measurements, SMEs can create more opportunities for themselves to win government contracts.

They can also position themselves as ideal procurement or enterprise development targets for large enterprises.

● *Nzama is a senior manager at KPMG's BEE advisory services. Visit www.kpmg.co.z for more information.*

Procedures to follow for a rating

- Familiarise yourself with all seven elements of the BBBEE scorecard;
- If your business is a QSE, choose the four elements that will result in the best score;
- Identify, collate and review all documentation that will be needed, based on the elements chosen;
- Find a reliable and accredited verification agency or complete the scorecard in-house.

MTN se base rol in die geld

Bl. 7

Rapport Sake

1 APRIL 2007

Goeie nuus kom vir Transnet se pensioenarisse

Bl. 3

Werkloosheid sal skerp daal as kundigheid en vraag mekaar kan aanvul

'n Miljoen vakante poste in SA

JOHANN VAN TONDER en HELEN UECKERMANN

Daar is tans sowat een miljoen vakante poste in die Suid-Afrikaanse ekonomie.

As dié poste gevul was, sou die werkloosheidskoers in Suid-Afrika net 19,7% gewees het pleks van die huidige 25,5%.

Verskeie faktore soos 'n tekort aan vaardighede en ervaring, die verkeerde toepassing van regstellende aksie en onvoldoende inligting in die arbeidsmark oor beskikbare poste verhinder dat die betrekkings gevul word.

Mnr. Trevor Manuel, minister van finansies, het in Februarie tydens 'n vraag-en-antwoordsessie ná die begroting gesê daar is sowat een miljoen poste wat nie gevul is nie. Net in die staatsdiens is 21% van die poste vakant.

'n Ondersoek van Sake-Rapport onder personeelagentskappe en vakbonde dui daarop dat dié raming in die kol is.

Statistieke SA (SSA) het Donderdag aangekondig dat sy jongste arbeidmagpeiling (LFS) toon dat Suid-Afrika se werkloosheidkoers in September verlede jaar teen 25,5% bykans onveranderd was teenoor die 25,6% ses maande tevore in Maart.

Daarvolgens het die getal werkers in die ses maande tussen Maart en September met 349 000 toegeneem tot 12,8 miljoen, waarvan 8,3 miljoen in die formele sektor werk. Maar die getal werkloses het ook gestyg – met 116 000 tot 4,4 miljoen.

Wat die LFS egter nie geneet het nie, was die aantal vakante betrekkings.

Indien al die vakante poste deur Suid-Afrikaanse werkers gevul kon word, sou die getal werkloses in September 3,4 miljoen pleks van die huidige 4,4 miljoen gewees het.

Die werkloosheidskoers sou dan teen 19,7% baie nader aan die regering se mikpunt van 13% teen 2014 gewees het.

Tekort aan vaardighede is groot rede

Mnr. Dirk Herman, adjunk- uitvoerende hoof van Solidariteit ... 'n Slaagsyfer in wiskunde maak die deur oop na die talle poste wat wag om gevul te word.

Mnr. Mike Schüssler, hoofekonoom van T-sec, sê indien die regering vaardighede kan verbeter, sal dit saam met vinnige ekonomiese groei 'n duik in Suid-Afrika se werkloosheidkoers maak.

Die vakbond Solidariteit se syfers toon dat daar sowat 600 000 vakante poste vir geskoolde werkers in die ekonomie is, sê mnr. Dirk Herman, adjunk- uitvoerende hoof.

Herman sê dié poste is ook dié wat die ekonomie verder sal laat groei, wat weer tot gevolg sal hê dat poste vir ongeskooldes ook gevul kan word.

"Amper alle professies word deur die tekort aan toepaslike opgeleide mense geraak, en in besonder die ingenieurswese en finansiëledienstebedryf.

"Daar is ook 'n reuse tekort aan vaardige ambagslui," sê hy.

"Daar is 'n drastiese toename in die inname van studente by ons universiteite, maar hulle studeer meestal in die menswetenskappe, waar daar reeds 'n ooraanbod is.

"Een van die dilemmas is die swak slaagsyfer in wiskunde. Dit veroorsaak dat mense nie verder opgelei kan word om die vakante poste, waar wiskundige vaardighede dikwels noodsaaklik is, te vul nie," sê Herman.

Volgens mnr. Brian Khumalo, direkteur van Korn/Ferry International, 'n personeelagentskap wat uitvoerende personeel plaas, is die geweldige aantal vakante poste te wyte daaraan dat die vaardighede wat deur die land se onderwys- en opleidingstelsel gegenereer word, nie ooreenstem met die vereistes van die arbeidsmark nie.

Mnr. Org Geldenhuys, direkteur van Abacus Recruitment wat spesialiseer in die plasing van personeel in die inligtingstegnologiesektor, sê sy groot kliënte adverteer soms tussen 30 en 50 IT-poste per maand. Hulle sit met 'n magdom beskikbare vakatures, maar sukkel om gespesialiseerde mense te kry wat die toepaslike opleiding het."

Schüssler sê die verkeerde fokus en omvangryke wanbestuur in talle van Suid-Afrika se sektorale opvoeding- en opleidingsowerhede (Setas) maak dit ook baie moeilik om in die behoefte aan nodige vaardighede te kan voorsien.

Hy meen daar word dikwels meer klem op transformasie gelê as op die ontwikkeling van die nodige kundigheid en vaardighede.

Die gevolg is dat betrekkings eerder vakant gelaat word.

Meer as R3,8 miljard wat beskikbaar is aan Setas om aan die opleiding van werkers te bestee, lê in bankrekeninge en by instansies soos Fidentia.

Schüssler sê hoe gouer die Setas hul werk ordentlik doen, hoe gouer sal werkloosheid afneem.

Solidariteit stig Afrikaanse beroepskollege

2006-12-11

Flip Buys

**Uitvoerende hoof, Solidariteit*

Daar is die afgelope dekade al baie gepraat en geskryf oor die kwessie van Afrikaanse onderwys en hoër onderwys. Min of niks is egter gesê of gedoen oor die kwessie van Afrikaanse beroepsopleiding nie. Dit is eintlik vreemd, omdat tussen 69% en 75% van alle jong skoolverlaters nie universiteit toe gaan nie, en omdat verdere beroepsopleiding vir alle mense wat reeds werk ook van groot belang is.

Dit is veral jammer dat die kwessie nie aandag kry nie, omdat Afrikaanse beroepsopleiding feitlik verdwyn het. Die rede hiervoor is dat staatsinstellings én private instansies wat beroepsopleiding aanbied feitlik deur die bank verengels het. Dit het nie net Afrikaans as 'n beroepstaal ernstig benadeel nie, maar ook daartoe gelei dat baie Afrikaanssprekende skoolverlaters glad nie meer enige verdere opleiding na skool gaan doen het nie. Dit het vanselfsprekende gevolge vir hulle indiensneembaarheid, en veral vir hul beroeps- en vorderingsmoontlikhede. Dit is daarom uiters belangrik vir Afrikaans én vir die beroepsbelange van Afrikaanssprekendes dat daar steeds Afrikaanse instellings moet wees wat op verdere onderwys en opleiding (VOO) fokus.

Die SA vaardigheidstekort

Suid-Afrika het miljoene werkloses, behoefte aan miljoene opgeleide mense, miljarde beskikbaar vir opleiding, puik opleidingsgeriewe, maar 'n skandalige gebrek aan gehalte-opleiding! Daar word reeds algemeen aanvaar dat die vaardigheidstekort die belangrikste struikelblok vir die land se ekonomiese groei en ontwikkeling is. Daar is verskeie redes hiervoor, waarvan die verengelsing van beroepsopleiding een is wat die toegang vir Afrikaanse jongmense belemmer het. Ander redes was die verskuiwing in fokus vanaf beroeps- na universiteitsopleiding sedert 1994. Suksesvolle lande se opleidingstelsel is normaalweg in die vorm van 'n driehoek, waarvan die breë basis beroepsopleiding is en die punt universiteitsopleiding. Die Suid-Afrikaanse driehoek is egter omgedraai, met hopeloos te min klem op beroepsopleiding in verhouding met universiteitsopleiding. Die krisis het nou so groot geword dat die regering se versnelde inisiatief vir opleiding in prioriteitsvaardighede, Jipsa, gelukkig weer groot klem op VOO-instellings se rol lê. Byna R2 miljard gaan in die volgende jare in dié instellings gepomp word, omdat die vaardigheidstekort in die verdere onderwys en opleidingsbande in baie gevalle krisisafmetings aangeneem het. Sakereuse wat groot herstelwerk moet doen, het byvoorbeeld nie 'n ander keuse as om algemene ambagslui soos sweisers van Thailand af in te voer om te kom help nie.

Die groot rede vir die vaardigheidstekort moet voor die deur van die regering gelê word, met die sakesektor as belangrike medepligtige. Die nuwe opleidingsbedeling het 'n vaardigheidsheffing van

1% van die salarisrekening op alle maatskappye gelê om opleiding deur die sektorale opleidingsrade (Seta's) te befonds. Dit het die verantwoordelikheid vir opleiding grootliks van die privaatsektor na die staat verskuif, wat nie oor die vermoë beskik het om dit te doen nie. Die doeltreffendheid van die Seta's het veral in die beginjare veel te wense oorgelaat, om dit sag te stel, terwyl baie van hulle steeds sukkel. Feitlik alle groot maatskappye het hulle opleidingsgeriewe drasties afgeskaal of gesluit, omdat hul opleidingsbegrotings grootliks aan die staat oorbetaal is. Baie maatskappye se fokus op korttermynwinste het daartoe gelei dat opleiding as onnodige onkoste gesien word waarop daar besnoei kan word.

Ander redes vir die vaardigheidstekort is dat die nuwe opleidingsbedeling se geweldige fokus op regstelling en transformasie derduisende wit en bruin jongmense hulle opleidingsgeleenthede ontsê het. Daar moet onthou word dat beroepsopleiding in baie rigtings geweldig duur is. Dit kos *normaalweg byna dubbeld soveel om 'n ambagsman op te lei as wat dit kos om 'n ingenieur op te lei.* Daar is sekere ambagte waarvan die opleiding tot R100 000 per jaar kos vanweë die duur toerusting en ander opleidingsuitgawes. Voorts is daar normaalweg bitter min beurse vir beroepsopleiding beskikbaar, en hierdie sektor ken nie die beursbedeling wat op universiteite betrekking het nie. Vanweë maatskappye se strategie om hul arbeidsmagte se rasseteikens grootliks deur middel van opleiding te bereik, is 'n wit skoolverlater se kans op 'n beurs vir beroepsopleiding feitlik nul. Die status van beroepsopleiding het baie jongmense in die verlede ontmoedig, veral na die afskaffing van die bietjie beroepsvoorligting wat daar nog by skole was. Die gebrek aan 'n positiewe toekomsbeeld onder veral baie wit jonges het hulle ook ontmoedig om opleiding te ondergaan. Die houding was "ek gaan tog nie werk kry nie, waarom moet ek gaan studeer en nog boonop self daarvoor betaal?" Die neiging by jongmense om 'n jaar of drie oorsee te gaan werk, het opleiding ook benadeel. Hierdie jonges wil in baie gevalle nie meer studeer as hul terugkom nie, omdat hulle nou al onafhanklik is en aan 'n salaris gewoond geraak het.

Noodsaak van opleiding

Opleiding bly egter die beste belegging wat 'n jongmens in sy of haar toekoms kan maak. Professor Hermann Giliomee het al gesê dat moedertaalonderwys en opleiding 'n baie groter rol in die oplossing van die armblankevraagstuk gespeel het as werkreservering of ander apartheidsmaatreëls. Moedertaalopleiding en top-vaardighede was die onsigbare enjin van die huidige geslag se ekonomiese sukses. Mense aanvaar dit as só vanselfsprekend dat hulle hulle nie kan voorstel dat die *huidige geslag jongmense wat nie universiteit toe gaan nie begin sukkel nie. Die probleem is dat die* huidige golf van voorspoed die opkomende probleem verberg van 'n toenemende gebrek aan naskoolse opleiding onder die 75% Afrikaanse jongmense wat nie universiteit toe gaan nie. As moedertaalopleiding al voorheen die oplossing was, is dit seker logies dat dit steeds belangrik is om te keer dat daar weer 'n armoedeprobleem ontstaan. Wat is die toekoms van jongmense sonder naskoolse opleiding in 'n werksomgewing waar daar op rassegronde teen hulle gediskrimineer word?

Die huidige strukturele krisis in vaardighede bied egter 'n unieke geleentheid aan jongmense om vir hulleself 'n toekoms te skep deur te sorg dat hulle behoorlike opleiding kry. Opleiding kan dié mededingende voordeel vir jongmense met dryfkrag en inisiatief word, en kan help om geleenthede vir hulle baie meer toeganklik te maak in 'n ekonomie waarin daar selfs 'n tekort aan basiese vaardighede is. Daar is egter drie vereistes vir sukses: dit moet opleiding van hoë gehalte wees, dit moet in die regte rigtings wees, dit moet ook op ondernemerskap fokus. Maar hierdie jongmense het hulp nodig om dieselfde geleenthede te bekom as wat die huidige geslag Afrikaners gehad het. Daarom moet die Afrikaanse wêreld weer oorspronklik dink en doen om beroepsopleiding in Afrikaans vir ons jongmense toeganklik te maak.

Voorbereiding

Solidariteit het in 2004 navorsers en 'n projekspan, onder leiding van Piet du Plooy, Solidariteit se adjunkhoof (bedryf), aangestel om voorstelle te maak oor stappe wat die vakbond kan doen om opleiding te bevorder. Dit het duidelik geword dat vakbonde in baie lande opleiding as deel van hul kernbedrywigheid beskou, maar dat befondsing en uitvoerende vermoë die grootste struikelblokke sou wees. 'n Afvaardiging van die vakbond het in Europa en die VSA gaan kyk hoe vakbonde opleiding doen, en was veral beïndruk met die Skrynwerkersvakbond in die VSA. Hierdie vakbond lei jaarliks meer as 30 000 ambagslui by 250 landwye opleidingsentrums op. Sowat 15 000 van sy lede ontvang ook jaarliks verdere opleiding. Die vakbond beskou opleiding as een van sy kerndienste, wat 'n onvergelykbare mededingende voordeel aan sy lede en hulle gemeenskap bied.

Solidariteit het 'n Waardeketting ontwikkel wat die vakbond se strategie om waarde aan die belangrikste lewensfases van sy lede toe te voeg uitspel (*kyk illustrasie*). Die eerste skakel is hulp met noodvoeding by Afrikaanse laerskole om te help verseker dat kinders die onderwys kan benut. Steun word tans by 42 skole verleen. Die tweede skakel is hulp in die vorm van studiebeurse. Solidariteit is 'n vennoot van die Rapport Onderwysfonds en het ook sy eie Helpende Hand Fonds, wat studiebeurse toeken, op die been gebring. Die derde skakel is beroepsopleiding. Solidariteit het vroeër vanjaar daarmee begin deur die stigting van 'n kollege, Sol-Tech, terwyl die vakbond sy sitting by Seta's en onderhandelingsregte by sowat 3 000 maatskappye gebruik om opleiding te bevorder. Die vierde skakel is werkverskaffing. Solidariteit het pas 4 personeelagentskap-konsessies bekom met die doel om opgeleide mense in werk te kan plaas. Navorsing wat deur Solidariteit se AfriForum "Kom-Huis-Toe-veldtog" onderneem is, het getoon dat byna die helfte van Suid-Afrikaners in die buiteland dit sterk sal oorweeg om terug te kom as hulle hier werk kan kry. Die vyfde en sesde skakels is die kernbesigheid van die vakbond self, terwyl die sewende skakel na die doelwit van finansieel selfstandige aftrede verwys.

Om hierdie waardeketting in werklikheid te kon omskep, was daar geld nodig. Daarom het Solidariteit 'n paar jaar gelede eers 'n sakebeen gevestig om die nodige kapitaal te ontwikkel om die vakbond se strategie uit te voer. Solidariteit het onder meer 'n konsessie van Auto & General bekom en 'n groep-korttermynskema op die been gebring sodat lede groepsafslag kon kry en daar terselfdertyd 'n inkomste vir ons sakebeen geskep is. Verskeie ander besighede is gevestig, waarvan die jongste 'n vakansieklub is wat in samewerking met Steve Hofmeyr ontwikkel word. Solidariteit het ook twee jaar gelede die Helpende Hand as maatskaplike fonds gestig, as deel van die waardeketting en strategie om jongmense deur middel van opleidingsbeurse te bemagtig. Dit word deur vrywillige

ledebydraes befonds. Die inkomstes hieruit is vir 'n lang tydperk herbelê om die besighede vinniger te laat groei, maar teen 2006 was Solidariteit in staat om 'n gebou langs die vakbond se hoofkantoor in Centurion te koop om Sol-Tech te huisves. Die eerste 42 elektrotegniese leerders het so pas hulle teoretiese studies voltooi, en die vakbond het met verskeie maatskappye onderhandel waar hulle nou praktiese ervaring kan opdoen.

Sol-Tech netwerkmodel

Sol-Tech se opleidingsmodel is met die hulp van top kundiges uitgewerk. 'n Ervare kernbestuurspan is einde 2004 aangestel en het onder leiding van Theuns Steenkamp aan die opleidingsplan begin werk. Daar is besluit om op 'n netwerkbeginsel te werk en om Sol-Tech nie self as 'n kollege te registreer nie. Die meeste opleiding word wel by Sol-Tech se opleidingsgeriewe en in Afrikaans gedoen. Dit beteken dat Sol-Tech met die beste diensverskaffer op elke gebied 'n vennootskap aangaan, eerder as om alles self te doen. Benewens kosteoorwegings is die voordeel daarvan dat studente dan amptelike kwalifikasies by bekende en ervare opleidingsinstellings verwerf. Solidariteit is goed geplaas om opleiding te bevorder, omdat die vakbond sitting in die direksies van 7 Seta's het, omdat die vakbond onderhandelingsregte by baie maatskappye het, en ook grondvlakkontak met jong werkloses en werknemers het om vaardighede te verbeter.

Sol-Tech se doel is om in 2007 724 studente op te lei, waarvan 80% in tegniese en 20% in ander rigtings soos sake-administrasie en ondernemerskap. Sol-Tech se huidige program van kort vaardigheidskursusse word ook uitgebrei. Daar word tans 'n uitvoerbaarheidstudie gedoen na die aankoop van 'n afstand-onderrigkollege om die volle spektrum van beroepsopleiding landwyd in Afrikaans beskikbaar te kan stel. Koste is tans die grootste beperkende faktor, en daar word beplan om die Helpende Hand en die vakbond se sakebeen verder uit te brei om die opleiding te befonds. Solidariteit kan dit egter nie alleen doen nie die hele Afrikaanse wêreld sal moet bydra om opleiding te help befonds.

Afrikaanse onderwys- en universiteitsopleiding bly noodsaaklik, maar die Afrikaanse wêreld mag nie die groot persentasie van sy jongmense wat nie universiteit toe gaan en diegene wat reeds in beroepe staan in die steek laat nie. Afrikaanse beroepsopleiding is van deurslaggewende belang vir hulle toekoms. Ons moet vir hulle geleenthede skep om voluit Afrikaans te kan wees, anders gaan hulle verarm of groener weivelde in die buiteland soek.

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JOINT INITIATIVE ON PRIORITY SKILLS ACQUISITION (JIPSA)

&

ACCELERATED AND SHARED GROWTH INITIATIVE FOR SOUTH AFRICA (ASGISA)

www.gov.za

1. **JIPSA**

1.1. **What is JIPSA?**

a) The Joint Initiative on Priority Skills Acquisition (JIPSA) is a high- level initiative led by Deputy President to identify solutions to skills shortages in critical areas over the next three years. JIPSA is a joint initiative between government, labour and business.

1.2. **How does JIPSA relate to ASGISA?**

a) The Accelerated & Shared Growth Initiative for South Africa has identified six factors that constrain growth in SA. One of these is the shortage of skills. JIPSA will develop strategies for fast-tracking skills delivery in priority areas, and unblocking obstacles so as to support ASGISA's objectives of promoting economic growth, and halving poverty and unemployment by 2014.

1.3. **Who sits on the JIPSA Joint Task Team?**

a) The Joint Task Team is headed by Deputy President Phumzile Mlambo-Ngcuka and comprises 26 members, including nine government ministers, and senior leaders from business and labour.

1.4. **What are JIPSA's objectives?**

a) While there are many skilss requirements, the following have been identified as priorities for economic growth and development in short and medium term:

(i) **Short-term skills requirements:**

- The acquisition of intermediate artisan and technical skills for the ASGISA infrastructure development programme.
- The development of ICT (information & communication technology) skills, which is a priority area for ASGISA.
- The recruitment, retraining and employment of unemployed graduates.

(ii) **Medium to longer-term skills requirements:**

- High-level, world-class engineering and planning skills for the transport, communication and energy industries.
- City, urban and regional planning and engineering skills.
- Artisan & technical skills – specifically in infrastructure development, housing and energy.
- Management capacity in education and health
- Mathematics, science, ICT and language competence in public schooling.

1.5. How will JIPSA resolve the constraints to skills delivery ?

a) Under the leadership of the Deputy President, the Joint Task Team is strengthening cooperation & coordination across key departments & institutions , and between the publiv and private sectors, to resolve blockages and fast-track skills delivery in critical areas. The following issues will receive particular attention:

- Sector education & training authority (SETA), National Skills Fund (NSF) and government department funding for JIPSA-related initiatives.
- Alignment between SETA skills plans and JIPSA & ASGISA objectives.
- The implementation and outcomes of learnerships, apprenticeship, internships and bursary schemes.
- The composition and functioning of SETA boards.
- A critical analysis of the balance between higher and further education and training, in terms of expenditures, outcomes and the needs of the economy.

1.6. How is JIPSA funded?

a) Jipsa will focus on unlocking funding that is currently available, and on mobilizing additional state, private sector, donor, and other funding. Business through the Business Trust has provided funding to support the activities of the secretariat.

1.7. What are the relationship between JIPSA & the National Skills Development Strategy?

a) The National Skills Development Strategy is a five year strategy that forms part of South African's human resources development policy framework. JIPSA is a short to medium-term mechanism to fast-track the objectives of the National Skills Development Strategy, and to prioritise the acquisition of skills necessary for accelerated and shared growth.

1.8. **How does the JIPSA relate to the BEE score cards?**

a) JIPSA will provide incentives to companies to meet scorecard targets. The recruitment of skilled people into critical positions will enable companies to accelerate the recruitment and training of black South Africans, and will have a positive impact on economic growth.

1.9. **What is JIPSA's time frame?**

a) The JIPSA programme will be implemented in phases, with the first phase expected to be completed in 18 months. The complete life span of the initiative is set at three years.

1.10. **Does JIPSA enjoy the support of trade unions and the business community?**

a) Yes, COSATU and FEDUSA, as well as top business leaders are participating in the JIPSA Task Team. In addition, the private sector as well as the "trade union representatives" are contributing in various JIPSA work streams.

1.11. **How can organisations become involved?**

a) Institutions & organisations are encouraged to partner with JIPSA. For example, public , private sector & state owned enterprise training centres all have a vital role to play in meeting the country's priority skills requirements. ASGISA is a sking such providers to train beyond their immediate needs to assist in meeting national skills requirements.

2. ACCELERATED AND SHARED GROWTH INITIATIVE FOR SOUTH AFRICA (ASGISA)

2.1. In ASGISA government seek to:

- Half unemployment and poverty by 2014,
- Average of Growth of at least 6% of GDP by 2014,
- Want Sustainable and Shared Growth

a) ASGISA is not a new economic policy. It is mostly micro economic reforms within a GEAR Macro economic framework. It is about the:

- efficiency of the state,
- better conditions for business,
- closing the skills gap in short and long term,
- linking the 1st and 2nd economy,
- clearing up on Governance and Red tape, corruption etc, that impacts on delivering at all levels of government and critical within specific departments like DTI, DME, HA, DLA .

b) The key Initiatives in ASGI-SA are:

(i) Infrastructure-

- R320 billion to be spent by SOE, government departments, PPP in the current METF, ESKOM, Transnet, Water, ACSA/2010, Roads, Habours, Rail, Clinics and Schools.

(ii) Human Resources – Artisan skills & high level scarcity . Skills needs for key sectors of the economy face similar challenges. i.e. the long term quality of education and curriculum relevance needs attention, it will help us to have our critical pool of skills.

c) Scarce skills that have been identified for the agent ASGISA include:

(1) Sectors to be promoted:

(i) The following are the sectors we have identified as priority and are ready to implement pending minor outstanding matters.

- Tourism and
- BPO

(ii) These two sectors represent quick win sectors for both 1st and 2nd economy

(iii) Other sectors which are priority but are still work in progress include:

- Bio-fuels,
- Chemicals,
- Agriculture,
- Mineral beneficiation,
- Creative industries Clothing,
- Textile,
- wood and pulp paper.

(iv) The following issues still need to be finalised in some of the sectors.

- competition,
- import parity pricing,
- and incentive scheme

(2) **Second Economy SMMEs**

(i) Access to Finance Micro

(ii) Further second economy initiatives will target youth & unemployed graduates.

- Youth will be targeted for artisan training at FET, learnerships and apprenticeships.

- Housing challenges also enjoy priority in ASGI-SA especially the lower middle class who cannot find homes for R250 thousand to R150 million.

d) In Conclusion:

- ASGISA is meant to assist government to perform better and profile the country well and share growth.

Jipsa-plan wil lewe blaas in SA groei

27/03/2007 08:18 - (SA)
http://www.news24.com/Sake/Ekonomie/0,7166,6-98_2089701,00.html

Jan de Lange,

Die regering en die private sektor het vir die eerste keer ooreengekom op uitdruklike teikens en maatreëls vir die oplei en behoud van ingenieurs en ambagslui om die land se ambisieuse infrastruktuurprojekte te rugsteun.

Jipsa, die oorkoepelende liggaam vir die verkryging en behoud van strategiese vaardighede, het ooreengekom om die opleiding van nuwe ambagslui te vermeerder van 5 000 per jaar tot 12 500.

Verteenwoordigers op die hoogste vlak uit die sakesektor, vakbonde en staatsdepartemente dien in Jipsa wat vandag presies 'n jaar gelede tot stand gekom het onder leiding van adj.pres. Phumzile Mlambo-Ngcuka.

Die rolspelers in Jipsa het sedertdien op 'n volledige, gedetailleerde plan ooreengekom om 50 000 nuwe ambagslui teen 2010 te produseer – 'n styging van 150%.

Om dit moontlik te maak moet stelselprobleme uit die weg geruim word.

Die Wet op Vaardigheidsontwikkeling van 1998, wat ambagslui soos swart skape behandel, gaan hersien en gewysig word sodat die opleiding van ambagslui 'n sentrale rol daarin speel.

Die ou Mannekragwet, wat meer as 25 jaar gelede geskryf is en die opleiding van ambagslui reguleer, gaan herroep en by die Wet op Vaardigheidsontwikkeling ingelyf word.

Die wysigings moet dit makliker maak om geld wat met die vaardigheidsheffing op die loonrekenings van alle werkgewers ingevorder word, te gebruik vir die opleiding van ambagslui.

"Daar word dringend aandag gegee aan die ineenskakeling van die verskillende opleidingsbane – vakleerlingskappe, leerlingskappe en die nuwe beroepskwalifikasies wat in kolleges vir verdere opleiding aangebied word en tot ambagsman-status lei," sê Jipsa in sy jongste jaarverslag wat gister bekend gemaak is.

Mlambo-Ngcuka het ook bekend gemaak dat die regering nou vir die eerste keer beurse gee vir studie aan die eertydse tegniese kolleges, wat deesdae as kolleges vir verdere onderwys en opleiding bekend staan.

Jipsa sê van die 1 400 ingenieurs wat elke jaar gradueer, registreer net die helfte by die ingenieursraad as professionele ingenieurs. Om te voldoen aan die land se behoeftes, moet die getal ingenieurs wat jaarliks opgelewer word, met sowat 1 000 styg tot 2 400.

"Suid-Afrika sal pogings moet versnel om ingenieursvaardighede in te voer vir sy

onmiddellike behoeftes. Dit is nodig omdat die land 'n enorme toename in infrastruktuurontwikkeling en ander groot kapitaalprojekte ervaar.

"Alles dui daarop dat hierdie groeifase vir die volgende dekade gaan voortduur namate die Asgisa-strategie werklikheid word," lui Jipsa se verslag.

Die ingenieurstekort hou wesenlike gevare in vir die infrastruktuurprojekte van R400 miljard in die volgende twee jaar.

Daarom gaan die "kandidaatfase" vir die registrasie van professionele ingenieurs ingestel word.

Werkgewers, insluitende staatsdepartemente, gaan ook genader word om strategieë te ontwikkel vir die behoud, heropleiding en invoer van ingenieurs.

"Jipsa is in gesprek met die departement van arbeid en van binnelandse sake oor korporatiewe werkpermitte en die opstel van vinniger goedkeuringsprosesse," lui die verslag.

Die getal ingenieursgraduandi moet verhoog word en meer van die afgestudeerdes moet hulle as professionele ingenieurs laat registreer.

Werkgewers het 'n belangrike rol te speel in die opleiding van ingenieurs deurdat hulle geleenthede vir die opdoen van ervaring en mentorskap moet bied.

Jipsa het ook vaardigheidsplanne opgestel vir die sake-uitkontrakteerbedryf. 'n Teiken van 30 000 intreevlak-kandidate gaan vir die bedryf opgelei word, asook 5 000 toesighouers en bestuurders.

Opleidingsplanne vir die toerismebedryf is ook deur Jipsa saamgestel

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an in-depth discussion of mining issues in South Africa

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Skills shortage: multiple roots, multiple approac

by Marilyn Boyd

No single factor can be held up as the cause of the skills shortage being felt so acutely not only in the South African mining industry, but throughout the country's commercial enterprises. The dearth of skilled people across the industrial spectrum and at all levels has multiple roots, some of which began to take hold as far back as 25 to 30 years ago.

This is the opinion of Vusi Mabena, skills development adviser at the Chamber of Mines of South Africa.

'In the 1970s, at the apex of the apartheid era, the South African economy was experiencing growth and there was an increasing demand for skilled artisans,' says Mabena. 'However, with most of these jobs reserved for whites, the mining industry began to experience a shortage. Mining companies established their own training centres and put a lot of energy into in-house training to develop the skilled personnel they needed.

'Technical posts and training opportunities only started opening up to other races by the end of the 1980s, but it took many years before these young people were drawn into technical roles in any meaningful way.

'Over more or less the same period, investment in infrastructure such as roads, power stations and railways started to decline, also contributing to the limited opportunities for young people to be drawn into artisanal vocations.'

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By the late 1980s and early 1990s, investment in the South African gold mining industry started to dwindle. Production dropped by 10% between 1980 and 1990 and a further 28% decline in production was recorded between 1990 and 2000. Mining companies began retrenching and the raison d'étre of their in-house training centres was severely weakened, as intakes of new trainee artisans decreased sharply. At one point during the 1990s, the South African mining industry enrolled less than 1 000 trainee artisans during one year.

Change in education policy

The decade before the fall of apartheid and its ultimate demise in the early 1990s paved the way for the creation of a new education policy that would guide the future development of skilled individuals and make it possible to recognise and formalise existing skills in the workforce.

Documenting this period of history, the South African Qualifications Authority (SAQA) records that the Department of Manpower, through the then National Training, had embarked, as far back as the 1980s, upon a number of initiatives, notably the restructuring of the apprenticeship system into a competency-based modular training scheme run by autonomous industry training boards. However, SAQA notes that unions viewed the process as flawed, not only because it excluded workers, but also because the proposals emanating from the initiatives were narrowly focused on apprenticeship to the exclusion of basic education, which was seen as a point of access to skills training. After a troubled and conflicted period, the Department of Manpower and the trade union federations reconvened in 1992 in an attempt to renew the process.

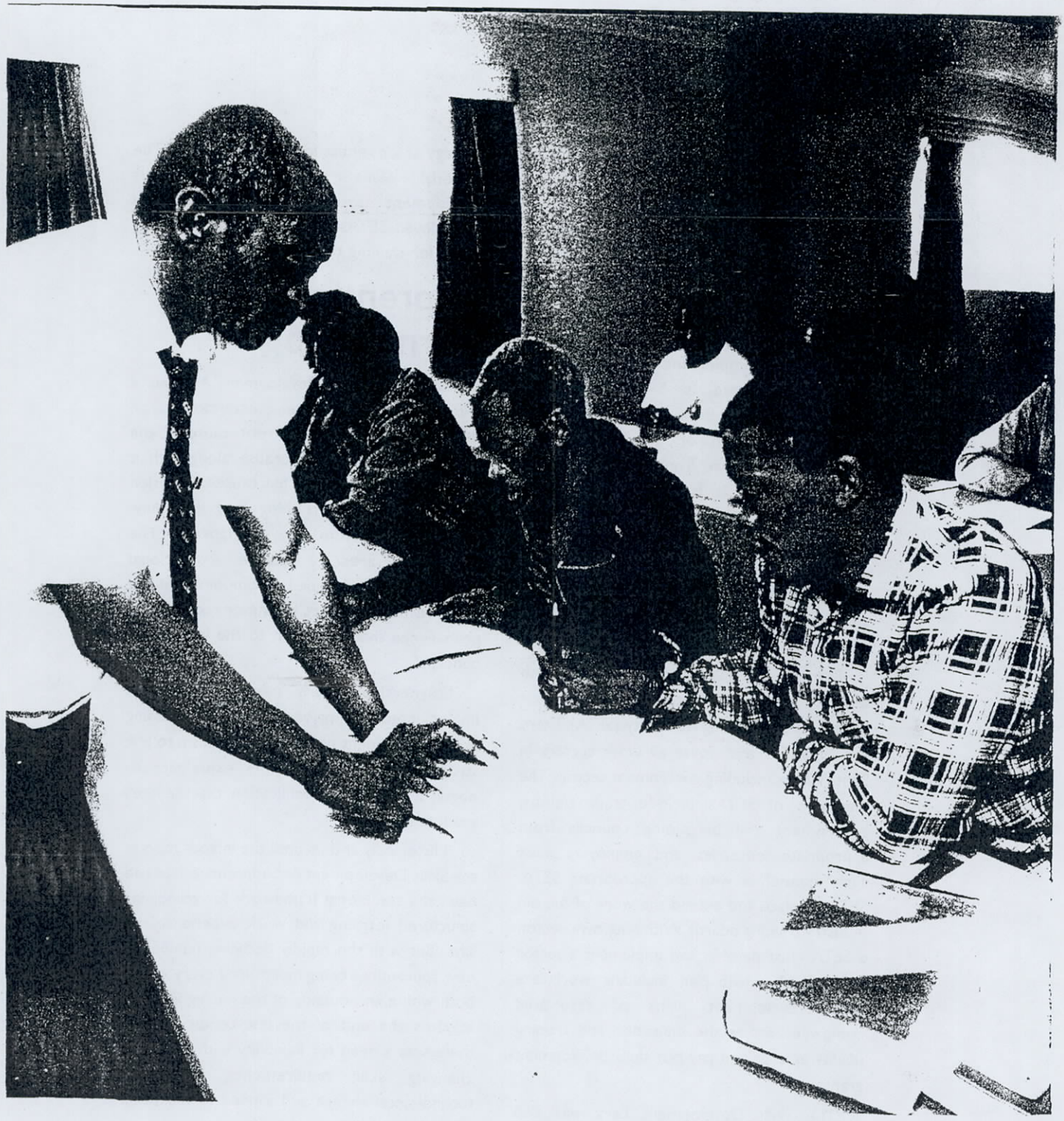
SAQA records that at the same time, the Department of Education initiated its own process of policy discussion, culminating in the Education Renewal Strategy. The democratic alliance within the education sector was invited to participate in the process, but declined the invitation on the grounds that the initiative lacked legitimacy. The strategy also advocated three streams – academic, vocational, and vocationally-oriented – a system the democratic alliance found unpalatable. The education employer sector did, however, participate in the process, advocating a seamless framework similar to that adopted by Scotland and New Zealand.

'The 1992 meeting of the Department of Manpower and the trade union federations resulted in the formation of a representative task team that established eight working groups charged with developing a new national training strategy,' the record notes. 'The working groups had representation from trade unions, employers, the state, providers of education and training, the ANC education department and the Democratic Alliance.

'Finally, Working Group 2 reached agreement on a new integrated framework and the historic year 1994 saw the publication of three documents that laid the foundation for the SAQA Act of 1995, the ANC Policy Framework for Education and Training (1994), the Discussion Document on a National Training Strategy Initiative (1994) and the Continuing Education and Professional Development Implementation Plan for Education and Training (1994). White papers on education and training (1995) and on reconstruction and development (1994) followed, both of which underscored the need for the development and implementation of the National Qualifications Framework (NQF).'

Skills Development Act

In 1998, government introduced the Skills Development Act, No. 97 of 1998 to develop and improve workplace skills. In effect, the Act was intended to provide a framework for the development of skills of people at work, to build these development plans/strategies into the NQF, to provide for learnerships that lead



Language skills are an essential part of ABET training

to recognised occupational qualifications and to make provision for the financing of skills development by means of a levy-grant scheme and a National Skills Fund.

The NQF is a set of principles and guidelines for education and training that comprises strategies to develop an accessible, integrated approach towards education and training, relevant to South Africa in the 21st century. It joins together academic, technical, commercial and occupational learning and provides opportunities for all South Africans to

learn on an ongoing basis regardless of age, circumstances or current level of education and training. Through the NQF, records of learner achievement are registered to enable national recognition of acquired skills and knowledge, thereby ensuring an integrated system that encourages life-long learning.

The Skills Development Act defines several structures to implement the NQF. The foremost of these is SAQA, which is responsible for overseeing the development and implementation of the NQF. SAQA members are drawn from among industry stakeholders and it is accountable to the departments of labour and of education. SAQA establishes national standards bodies, standards generating bodies and education and training quality assurers. SAQA is also the custodian of the development and registration of unit standards and qualifications.

Through the Skills Development Act, each separate economic sector has one Sector Education and Training Authority (SETA). There are 23 SETAs that cover all work sectors in South Africa, including government sectors. The members of SETAs include trade unions, government and bargaining councils from appropriate industries, and employers must align themselves with the appropriate SETA. SETAs replace and extend the work of the old industry training boards. Within its own sector, a SETA must develop and implement a sector skills development plan including workplace skills development plans of associated companies, act as the education and training quality assurer and pay out skills development grants.

The Skills Development Levy was also established under the Skills Development Act and requires certain employers to pay a levy to the South African Revenue Service for skills development of employees. The revenue service distributes 80% of this money to the different SETAs, while the other 20% is paid into a National Skills Fund. The SETAs then pay out grants to employers who appoint a skills development facilitator responsible for formulating and planning the skills development strategy of a business for a specific period. The National Skills Fund supports skills development projects directed at the unemployed. SETAs are also used as disbursing agents for training the unemployed.

Apprenticeship vs learnership

'Although the Skills Development Act was a critical and long overdue intervention, it can also be cited as another root cause of the current skills shortage because along with it came a dispensation that has caused confusion between artisanal training and the new learnership system,' says Mabena. 'The confusion arose because traditional apprenticeships remained a component of the Skills Development Act, but never received the prominence that was given to the learnership concept.'

Learnerships were mooted and later implemented as a major vehicle for addressing skills development needs – a mechanism to link structured learning and work experience to obtain a registered qualification that denotes work readiness.

'Historically and up until the introduction of the Skills Development Act, apprenticeships had been the traditional framework for combining structured learning and work experience,' he says. 'But with the rapidly declining number of new apprentices being indentured every year – both within and outside of the mining industry towards the end of the last century, clearly there was a need for flexibility with regard to changing skill requirements, linked to technological change and a need to multi-skill the lower levels in the workforce.

'Learnerships are intended to address the "how" of the national skills development strategy. Through learnerships, structured learning and work experience can be organised and accredited through registration with the NQF.'

The Department of Education has now begun phasing out the old N (or 'Nated' courses), yet the N2 qualification is still a

requirement to enter into an engineering learnership or apprenticeship programme. Further Education and Training (FET) colleges are no longer enrolling learners for N1 courses from 2007 and from January 2007, the National Certificate (Vocational) has replaced the Nated courses (N1 – N3).

The National Certificate (Vocational) is a new qualification at levels 2, 3 and 4 of the NQF. It is being introduced at FET Colleges at NQF level 2 in 2007 and will be introduced at level 3 in 2008 and level 4 in 2009. The National Certificate offers grade 9 learners a vocational alternative to an academic grade 10 – 12 by offering industry orientated training on the NQF levels 2 – 4, providing learners with an opportunity to experience work situations during their theoretical study. The qualification will also provide an opportunity to enter higher education studies.

Vocational education and training refers to generic education and training that prepares school leavers for the workplace, an occupational career, or entry into higher education institutions. The courses comprise both theory and practical learning, as well as work-based learning. This falls under the Department of Education and Training and will be subsidised at government institutions such as the FET colleges.

In contrast, occupational education and training refers to focused education and training as preparation for a specific occupation or career, in the form of a learnership, internship, skills programme or apprenticeship. These programmes include structured learning and workplace exposure to apply what has been learnt and to acquire skills. They fall under the jurisdiction of the Department of Labour with its network of SETAs and are not subsidised by the Department of Education.

Phasing out of the Nated courses is tied to the recent FET Colleges Bill, described by the minister of education, Naledi Pandor, as one of the most significant pieces of legislation in the area of skills development and vocational education.

Introducing the Bill last year, the minister said: 'The Bill is not only important for setting up a specific statutory platform for colleges. It is also important because our current shortage of skills poses the biggest threat to the infrastructure programme of government.'

'All indicators of economic growth and development point to the fact that we must have more artisans in all the economic sectors in our country. We believe colleges are best placed to teach these skills alongside industry and other partners. Now is the time for employers to look to the college sector for those critical skills they need in the immediate future.

'There is a plethora of institutions, organisations, businesses and individuals all involved in training. Generally none of the systems work in a co-ordinated and coherent fashion. This is the reason that despite the many excellent efforts, skills gaps remain and trainees fail to secure jobs in sectors that critically need skilled practitioners. The FET Colleges Bill provides the legislative framework to strengthen responsiveness, co-ordination and quality.'

Currently about 400 000 students attend FET colleges and 700 000 attend higher education institutions. Government plans to increase the number of students attending colleges and, to support this aim, an FET bursary and student loan scheme was announced by Finance Minister Trevor Manuel in his Medium Term Budget Policy statement in October 2006.

'We have redesigned the college sector so that from 2007 it will be able to offer intermediate and high-level skills to students from the age of 16 to mature adults. It will be able to give effect to our long held ideal of providing lifelong learning,' says Pandor.

Mabena comments: 'In other parts of the world there is a tremendous emphasis on lifelong learning and workforce development. At this time in our history, it is necessary to remedy the failures of foundation education in the past and build on the successes we have

achieved in addressing the skills shortage via new education strategies.

'If our national objectives of redress and economic inclusion are to be realised, all sectors must work together to deliver accessible, high-quality and cost-effective learning opportunities for young people and adults.

'Today we find ourselves in a very strong economy and serious investment in infrastructure is finally a reality. But where are the skills needed on the ground to man these projects?

'Gold reserves are dwindling and gold mines are training only the personnel they need to meet their own requirements, with limited investment in training activities. Platinum, on the other hand, is booming and demand for skilled artisanal personnel is becoming critical. The Mining Charter obliges platinum companies to recruit workers from the areas around their operations, but there are little or no skills among these communities.

'While we all acknowledge that the Nated courses needed modernising and we commend the Department of Education for exploring new alternatives, this new shift to vocational learning is choking the feed-through of young artisans at a time when they are critically in demand.'

Mabena points out that in other industries, companies have started to source trained artisans from the Far East and although the mining industry has not yet followed suit, this may ultimately be adopted as one solution to the dearth of skills.

'I have found mining companies extremely willing to work together

Gwede Mantashe, chairman of Jipsa's technical working group

Vusi Mabena, skills development adviser at the Chamber of Mines

and with the Department of Education, to address this problem – not only to meet their immediate skills requirements, but also to develop personnel to create an ample skills pool for the future,' he says.

Artisan training proposal

'The Chamber of Mines, on behalf of its members, is currently driving an artisan training proposal backed by the Chamber's Executive Council, which pitches for the registration of an Employment and Skills Development Agency with the Department of Labour. Non-Chamber members will also be able to benefit from this initiative. Once registered, this agency will co-ordinate all artisan training in the mining industry and will serve as the point of contact on skills development between the mining industry, government and aspiring unemployed learners.

'We're hoping that funding for this agency will come from the National Skills Fund through our SETA, the Mining Qualifications Authority and that through this agency the mining industry will be encouraged to equip people with artisanal skills that are also applicable to industries outside of our own, even though most of its graduates will be absorbed by the mining industry at this stage. Platinum companies currently need around 350 artisans a year per project and they just don't have the capacity to train this number of people themselves.'

At the time of going to press, the Chamber was awaiting promulgation of certain regulations governing the establishment of such an agency and thereafter was planning to apply for funding from the National Skills Fund to get underway.

JIPSA

Another major milestone on the road to solving the skills shortage was reached in April 2006, when South Africa's deputy president, Phumzile Mlambo-Ngcuka, established the Joint Initiative on Priority Skills Acquisition (JIPSA) – a joint initiative of government, business and labour to fast-track the provision of priority skills required to support accelerated and shared growth. The deputy president is also spearheading the rollout of the Accelerated and Shared Growth Initiative for South Africa (AsgiSA), which has earmarked addressing the shortage of priority skills as its top priority.

JIPSA aims to provide information and practical experience to inform policy and institutional changes required to ensure that South Africa is able to implement an effective and sustained human resource development strategy to meet social and economic needs. The programme will not duplicate the roles of existing departments, statutory bodies or other organisations, but will seek to establish mutually agreed priorities, and improve communication and the flow of information.

In her official presentation at the launch of JIPSA, Mlambo-Ngcuka said the initiative and other existing educational bodies were the most important building blocks for AsgiSA.

'Skills are the backbone on which every successful economy relies,' she said. 'JIPSA has a narrow but important mandate, which must begin to yield results within a relatively short space of time. Nothing short of a skills revolution by a nation united will extricate us from the crisis we face. We are addressing logjams, some of which are systemic and therefore in some cases entrenched even in the post-apartheid South Africa. The systemic nature of some of our challenges undermines our excellent new policies, at least in the short term – hence the need for interventions such as JIPSA to enhance implementation of our policies.

'Only if we have a nation that is united in partnership can we reverse the trend with regard to skills and give our policies a chance to succeed in the medium to long term,' she explained.

Mabena is part of JIPSA's technical working group which advises on remedial action. His participation is expected to ensure that the mining industry enjoys an equal share of the anticipated benefits arising from this initiative.

JIPSA is a two-tiered structure comprising a joint task team and a technical working group.

The joint task team, chaired by Mlambo-Ngcuka, comprises 26 members who are leaders in business, labour, higher education and civil society. The technical working group, chaired by Gwede Mantashe, is made up of specialists and experts in areas ranging from research, all levels of education, labour, business and government.

Its task is to identify blockages and seek solutions, ensure that systems and programmes are in place to attract skills and recommend researched interventions for decisions by the task team.

The joint task team will fast-track training and ensure that it maintains quality. Secondments and placements will be used extensively to enhance experience.

JIPSA's immediate focus will be on the skills needed for infrastructure development in government, the private sector and state-owned enterprises, the Expanded Public Works Programme and public service and social services delivery, such as health and education. Also prioritised are skills for sectors such as tourism and business process outsourcing.

'Beyond the urgent scarcity of skills, JIPSA will be sensitive to long-term fundamentals for the supply of skills needed for sustained shared economic growth which benefits all our people. Established educational institutions such as universities, FETs and schools, will always be the backbone for the training that JIPSA will need. JIPSA cannot succeed without standing on the shoulders of these core institutions,' said Mlambo-Ngcuka.

Cautionary note

Chairman of JIPSA's technical working group, Gwede Mantashe, former general secretary of the National Union of Mineworkers, adds a cautionary note that highlights an urgent need to address the quality of education from as early as grade R – the reception year – in South African government schools.

'The education gap that began in the apartheid years is far from closed,' he says.

'When we read that there is a 69% Matric pass rate in our country, what we are not seeing is the fact that this pass rate is a function of a mere 20% of our government-operated schools. So the fact is that an overwhelming number of young people, at the end of their school careers, have not been given a quality education sufficient to qualify them to enter further education streams.

'Of the scholars who manage to pass Matric, how many come through having passed maths and science – and how many on higher grade?

'What we have in reality, is a very small pool of young people equipped to become the skilled workforce that South African industry desperately needs.

'Aggravating this scenario even further, is the high drop-out rate from our universities – which I believe can be attributed largely to a lack of attention to the individual in terms of orientation to the university environment – as well as to deficiencies in basic language and computer competencies, particularly among rural students coming into institutions of higher learning.'

Mantashe suggests that the quickest way to address these challenges might be to establish two-week long summer and winter schools between school terms for learners in grades 10 to 12, managed by top quality teachers able to supplement what is being taught in the schools.

At the same time he stresses that teaching skills should be evaluated and upgraded from grade R upwards as a priority.

"We need to accept the facts and allocate whatever resources are needed to remedy these problems,' he says.

'I challenge South African companies in and beyond the mining industry to stop being short termist and invest in education and training over and above the requirements of the Skills Development Levy to ensure a steady supply of skilled people in the long term.'